

ODC 7

ORDER SHEET
AP/306/2022
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

KESHAV KUMAR DUBEY
VS
RAM KUMAR DUBEY AND ORS.

BEFORE:
The Hon'ble JUSTICE SHEKHAR B. SARAF
Date: 20th May, 2022.

Appearance:
Mr. Rupak Ghosh, Adv.
Mr. Chayan Gupta, Adv.
Mrr. Rajesh Upadhyay, Adv.
Mr. Rittick Chowdhury, Adv.
Ms. Surabita Biswas, Adv.
. . .for the petitioner.

Mr. Rihit Banerjee, Adv.
Mr. Vikash Singh, Adv.
. . .for the respondentss.

The Court: This is an application made by one of the partners of the partnership firm Shankar Goods Carrier wherein the petitioner submits that he had dissolved the partnership at will on 22nd April, 2022. Upon such dissolution he had informed the bank to freeze the accounts of the partnership which was done by the bank initially and thereafter the same was lifted by the bank on documents being provided by the respondents that indicated that the petitioner had retired on 10th March, 2021. The issue between the parties primarily revolves around whether the partnership was dissolved or one of the partners

had retired from the partnership on an earlier date. The partnership agreement contains an arbitration clause, which is agreed upon by both the parties. Furthermore, the parties are agreeable to go for arbitration but both parties seek protection.

In light of the same, Hon'ble Justice Sahidullah Munshi, retired Judge of this Court, is appointed as Arbitrator.

The appointment is subject to submission of declaration by the Arbitrator in terms of Section 12(1) in the form prescribed in the Sixth Schedule of the Act before the Registrar, Original Side of this Court within four weeks from today.

Let this order be conveyed to the Arbitrator by the Registrar, Original Side forthwith.

In my view, for the present, the respondent should be allowed to continue with their business. However, a Special Officer is required to monitor the same and to ensure that none of the assets of the business are in any manner transferred/encumbered.

Accordingly, Mr. Sachchida Nand Pandey, Advocate (Mobile No. 9007285496, 8240503869) is appointed as a Special Officer in this matter. The initial remuneration of the Special Officer shall be Rs.50,000/-.

I make it clear that the Special Officer shall not interfere with the business of the partnership firm but shall seek fortnightly accounts on all transactions that have taken place for the business.

The parties are directed to approach the Arbitrator immediately and the Arbitrator should enter into reference at the earliest. Both parties shall be at

liberty to file Section 17 application before the Arbitrator. The Arbitrator is requested to decide upon the same at the earliest.

The present order with regard to the Special Officer shall continue for a period of three months or until any further orders that are passed by the Arbitrator. I make it clear that the Arbitrator should be at liberty to modify the order passed by this Court.

AP/306/2022 is accordingly disposed of.

(SHEKHAR B. SARAF, J.)

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