

AP/517/2021

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTIONSRI BIRENDRA KISHORE GHOSH
VERSUS
PATRA TOUR AND TRAVELS PVT. LTD.BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
DATE : 8TH MARCH, 2022

APPEARANCE:

Mr. Supratic Roy, Advocate
..... for the petitioner.

The Court:- Affidavit of service filed by the applicant is taken on record. The respondent has duly been served.

This application has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of the arbitrator.

It is pointed by learned counsel for the applicant that an Agreement for Leave and License for use of a premises for the business purpose was executed on 1st of January, 2020 between the applicant and the respondent. The said agreement contained the following arbitration clause :-

“19. That in the event of any dispute between the parties the said disputes shall be referred for arbitration before the Sole Arbitrator to be appointed by the licensor at his own discretion and the only pre-requisite qualification of the said arbitrator is that he/she shall be a practicing advocate in Judge’s Court; Paschim Medinipur and the reference of such dispute shall deemed to the reference of dispute under the Arbitration and Conciliation Act, 1996 and the seat of arbitration shall be at Midnapore and the language of arbitration shall be in English and/or in Bengali.”

It has been pointed out that dispute had arisen between the parties, therefore, the applicant had given notice dated 14th December, 2020 to the respondent invoking the arbitration clause and making a prayer for appointment of arbitrator. But in spite of receipt of notice, no steps were taken

by the respondent to the appointment of the arbitrator. Hence, he has approached this Court.

Since no one is present for the respondent, therefore, the above submission of the counsel for the applicant has remained unrebutted. Since arbitration agreement exists between the parties and the notice invoking arbitration clause has been given and the dispute also exists, therefore, I am of the opinion that a case is made out for allowing the prayer for appointment of arbitrator in terms of Section 11(6) of the Act to resolve the disputes between the parties.

Accordingly, Debasish Roy, Advocate of this Court (Mob.9831173923) is appointed 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.

AP is accordingly disposed of.

(PRAKASH SHRIVASTAVA, C.J.)