

ORDER

OD-2

AP/526/2021

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION

GUNJAL CONSULTANTS PVT. LTD.
VERSUS
TAPAN SARKAR

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTVA
DATE : 10TH MARCH, 2022

[Via Video Conference]

APPEARANCE:

Ms. Sreenita Thaker, Advocate
.....for the petitioner.

The Court:- Learned counsel for the applicant has filed the affidavit of service which indicates that the respondent has been served twice in the matter yet no one is appearing for the respondent.

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

Learned counsel for the applicant has pointed out that the leave and license agreement dated 21st February, 2018 was executed between the parties which contains the following arbitration clause:

“XII. DISPUTES:

- 1. In case of any dispute arising or accruing in respect of this leave and license agreement, the same shall be referred for the arbitration in consonance with the provisions of the Arbitration and Reconciliation Act, 1996.*
- 2. Any dispute shall be within the jurisdiction of courts in Kolkata.”*

She has also pointed out that since there was a dispute in respect of non-payment of the outstanding license fees and not vacating the premises, therefore, the notice under Section 21 of the Act invoking the arbitration clause was sent by the applicant on 23rd September, 2021 which was duly served upon the respondent but no response was received. She has also submitted

that since the dispute had arisen between the parties, therefore, the arbitrator be appointed to resolve the dispute.

In spite of service of notice, no one is present. Therefore, arbitration agreement as also the submission advanced by the counsel for the applicant has remained unrebutted.

In view of the above, I am of the opinion that a case for allowing the prayer of the applicant for appointment of arbitrator to resolve the dispute between the parties is made out. Accordingly, Mr. Sourav Sen, Advocate, M:9831251607 is appointed an 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.)