

ORDER SHEET
IA NO:GA/1/2022
In
AP/539/2021
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

OTIS ELEVATOR COMPANY (INDIA) LTD.
Versus
GANNON DUNKERLEY AND CO. LTD.

BEFORE:
The Hon'ble JUSTICE SHEKHAR B. SARAF
Date: 21st April, 2022.

Appearance:
Swatarup Banerjee, Adv.
Mr. Avishek Guha, Adv.
...for the petitioner

Mr. Chayan Gupta, Adv.
Ms. P. Gandhi, Adv.
Ms. Sweta Gandhi, Adv.
...for the respondent

The Court: This is an application under Section 9 of the Arbitration and Conciliation Act, 1996.

It is to be noted that an interim order was passed in this matter on December 27, 2021, wherein the respondent was restrained from encashing the bank guarantee that was to expire on December 31, 2021. The interim order was to remain in force till January 5, 2022. This interim order has time and again been extended by a Coordinate Bench of this High Court.

The parties have also informed the Court that Section 21 notice for appointment of an Arbitrator has also been made by the petitioner. Both parties

agree that an independent Arbitrator should be appointed by this Court so that the disputes between the parties may be resolved at the earliest.

In view of the above, Mr. Anubhav Sinha, Advocate, Bar Library Club, (M. No. 9830161450) 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.

The interim order passed earlier expires on April 22, 2022 and is, accordingly, required to be extended for a period of six weeks from date.

The petitioner shall be at liberty to move Section 17 application before the learned Arbitrator at the earliest and the Court requests the learned Arbitrator to pass orders on the same within a period of six weeks from date.

I make it clear that all arguments that have been placed before this Court with regard to the renewal of the bank guarantee that had expired on December 31, 2021 may be placed before the learned Arbitrator and the Arbitrator shall decide whether the bank guarantee is required to be further renewed or not. All other issues are also kept open.

AP/539/2021 is, accordingly, disposed of.

IA NO:GA/1/2022 is also disposed of.

(SHEKHAR B. SARAF, J.)