

OD-07

ORDER SHEET
AP/508/2022
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

BHUTAN CARBIDE AND CHEMICAL LTD.
-VS-
KALYAN ALLOYS PRIVATE LIMITED

BEFORE:
HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
DATE: 26TH AUGUST 2022.

APPEARANCE:
Mr. S. Sengupta, Adv.; Ms. S. Das, Adv.; Mr. S. Dasgupta, Adv.; Ms. S.
Mitra, Adv., for petitioner.
Ms. A. Rao, Adv., for respondents.

THE COURT: This is an application under section 11 of the
Arbitration and Conciliation Act, 1996 (for short "the Act").

Learned counsel appearing for the petitioner has pointed out
that four purchase orders, dated 10.08.2018, 06.10.2018, 07.01.2019 and
04.03.2019 respectively, were executed between the parties which contained
the following similar and/or identical arbitration clause:

"6) ARBITRATION CLAUSE:-

Any dispute arising out of or in connection with PO, including
any question regarding its existence, validity or termination,

shall be referred to any finally resolved by sole arbitrator under the Arbitration and Conciliation Act 1996. The sole arbitrator shall be appointed by M/s. Kalyan Alloys Private Limited and Arbitration proceedings shall be held at Mumbai(MH.)”

Since there was a dispute between the parties, therefore a notice dated 19th May, 2022 was served by the petitioner upon the respondent invoking the arbitration clause which was replied to by the respondent by a letter dated 7th June, 2022.

The invocation of the arbitration clause in the present case is not in dispute. Learned counsel for the parties also do not dispute that in terms of the arbitration clause contained in the purchase orders, an independent Arbitrator is required to be appointed to resolve the dispute. The learned counsel has also pointed out that Mumbai, Maharashtra is the place of arbitration.

Since the arbitration agreements exist and the dispute also exists, therefore the prayer for appointment of Arbitrator is allowed. Accordingly, A.P. No.508 of 2022 is allowed.

Learned counsel for both the parties have jointly suggested the name of Sri Rajdeep Lahiri (Mob. No.9920048947). Therefore, he is appointed as Sole Arbitrator to resolve the dispute between the parties.

The appointment is subject to submission of declaration by the Sole 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.

A.P. No.508 of 2022 accordingly stands disposed of.

(PRAKASH SHRIVASTAVA, CJ)

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