

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION

AP/541/2022

DR. AJOY PAUL & ANR.
VERSUS
DR. PARTHA BISWAS & ANR.

AP/543/2022

DR. PARTHA BISWAS & ANR.
VS.
DR. AJOY PAUL & ANR.

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
DATE : 29th JULY, 2022

APPEARANCE:

Mr. Jishnu Saha, Sr. Advocate
Mr. Ishaan Saha, Advocate
Ms. Sananda Ganguli, Advocate
Mr. Shubradip Roy, Advocate
....for petitioners in AP/541/2022 & respondents in AP/543/2022

Mr. Ratnanko Banerji, Sr. Advocate
Mr. Reetobroto Mitra, Advocate
Ms. Urmila Chakraborty, Advocate
Mr. Orijit Chatterjee, Advocate
Mr. Indranil Karfa, Advocate
Ms. Sarbani Mukherjee, Advocate
....for petitioners in AP/543/2022 & respondents in AP/541/2022

The Court:- These applications under Section 11 of the Arbitration and Conciliation Act, 1996 have been filed for appointment of the independent arbitrator to resolve the dispute between the parties.

Parties in both the AP's are partners. A partnership agreement between the parties dated 27th March, 2018 was executed which contains the following arbitration clause :

“That all disputes and differences in respect of or arising out of or relating to or in connection with these present shall be settled by the partners themselves mutually or their nominated or authorised person or persons failing which the matter shall be referred to the arbitration according to and subject to the provision of Indian Arbitration and conciliation Act, 1996, subjects to all its modification and amendments thereof for the time being in force. The award to be made by the arbitrator or Arbitrators or umpire shall be final and binding on the parties hereto.”

It has been pointed out that the applicants in AP 541 of 2022 had served notice dated 15th June, 2022 to the other side under Section 21 of the Act since the dispute had arisen between the partners and proposed the name of the sole arbitrator. The reply to the said notice was given by the other side on 23rd May, 2022. Both the applicants now want the appointment of an arbitrator to resolve the dispute between the parties as the consensus in respect of the name of the arbitrator could not have been arrived at.

Having regard to the above and considering the fact that the arbitration clause exists between the parties and the dispute has arisen, therefore, with consent, Mr. Jayanta Kumar Mitra, Senior Advocate of this Court is appointed as sole Arbitrator to resolve the dispute between the parties.

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.

Accordingly, APs are disposed of.

(PRAKASH SHRIVASTAVA, C.J.)

pa/akg