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ORDER SHEET
AP/667/2022
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

BCPL RAILWAY INFRASTRUCTURE LIMITED
-VS-
M/S. NU METALOCRAFT PRIVATE LIMITED

BEFORE:
HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
DATE: 23RD SEPTEMBER 2022.

APPEARANCE:
Mr. B. Roy, Adv.; for petitioner.
Mr. D. Banerjee, Adv.; Mr. A. Ganguly, Adv. for respondent.

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 the purchase order dated October 26, 2018 was issued by the petitioner to the respondent which contained the following arbitration clause:

"In case of any dispute, it shall be decided through arbitration as per Statutory laws of India as applicable."

He has further submitted that in pursuance to the said purchase order, the applicant had given the advance to the respondent, but the delivery of the goods was not made. Therefore, the applicant had served the notice dated February 22, 2021 invoking the arbitration clause.

After receipt of the said notice, the respondent had given the reply dated March 19, 2021 admitted the amount payable, but refused to

accept the arbitration on the ground that third party should not be involved in settling the dispute.

The petitioner had again sent the notice dated March 30, 2021 and thereafter filed the present AP.

The above facts are not disputed by the learned counsel for the respondent. However, he is disputing the quantum of the claim which can very well be looked into by the Arbitrator.

Hence, in view of the above, I am of the opinion that a case for allowing the prayer for appointment of a sole independent Arbitration is made out.

Accordingly, the AP is allowed.

Mr. Debasish Mukhopadhyay, Advocate, (Mob. No.9830073451), 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.667 of 2022 accordingly stands disposed of.

(PRAKASH SHRIVASTAVA, CJ)

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