

ODC 4

ORDER SHEET
AP/681/2022
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

PRABIR KUMAR SAMANTA
VS
INDIAN METAL SUPPLY COMPANY AND ANR

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

Appearance:
Mr. Ganesh N. Jajodia, Adv.
Mr. Rohit Banerjee, Adv.
Ms. Nitu Singh, Adv.
. . .for the petitioner.

Mr. Emon Bhattacharya, Adv.
Ms. Pooja Sah, Adv.
. . .for the respondent.

The Court: The present dispute is one between two brothers who are partners in the partnership firm. The partnership deed contains an Arbitration Clause. Furthermore, the parties are agreeable to go for arbitration for both parties but both parties seek protection.

In light of the same, on suggestion of the parties, I appoint Justice Jyotirmay Bhattacharya, former Chief Justice of High Court at Calcutta, as 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.

In my view, for the present the respondent should be allowed to continue with their business. However, none of the immovable properties should be transferred or alienated by both the parties. Parties are directed to provide their accounts to the Arbitrator and the Arbitrator should provide the accounts to the other parties so that the other parties can formulate its claim before the Arbitrator.

The parties are directed to approach the Arbitrator immediately and the Arbitrator should enter into reference at the earliest. Both parties shall be at liberty to file Section 17 application before the Arbitrator. The Arbitrator is requested to decide upon the same at the earliest.

The respondent is granted liberty to file vokalatnama before the department within the course of the day.

AP No. 681 of 2022 is accordingly disposed of.

(SHEKHAR B. SARAF, J.)

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