

AP/4/2023

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION

GAINWELL COMMOSALES PRIVATE LIMITED
VERSUS
CORONATION INFRASTRUCTURE PRIVATE LIMITED

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
DATE : 2ND MARCH, 2023

APPEARANCE:

Mr. Biswarup Mukherjee, Advocate
Mr. Vinayak Chaubey, Advocate
Ms. Nabanita Mallick, Advocate
Mr. Indranil Munshi, Advocate
Ms. Anisha Mandal, Advocate
Mr. Soumajit Chowdhury, Advocate
....for the petitioner
Mr. Vivek Basu, Advocate
Mr. Arnab Sardar, Advocate
...for the respondent

The Court:- This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed for appointment of arbitrator to resolve the dispute between the parties.

Learned counsel for the applicant has pointed out that the agreement dated 11th March, 2020 was entered into between the applicant and the respondent for hiring of CAT made dumper machines which were to be deployed at JSW, Bhilwara Iron Ore Mines, Bhilwara. The said agreement contains the following arbitration clause:

“14. Arbitration

All dispute, questions and differences etc. arising in connection with this Agreement unless mutually agreed upon, shall be referred to a single Arbitrator nominated by GCPL in accordance with and subject to the provisions of the Arbitration and Conciliation Act, 1996 or any other enactment or statutory modifications thereof for the time being in force. The venue of the Arbitration shall always be Kolkata. The language of the Arbitration shall be in English.

15. Governing Laws

The agreement shall be governed by and construed in accordance with the Indian Law irrevocably agree that the courts of Kolkata shall have jurisdiction to entertain and determine any legal proceeding and to settle any dispute which may arise out of any in connection with this agreement and for such purposes irrevocably subject to the exclusive jurisdiction of the courts of Kolkata.”

He has further submitted that disputes had arisen between the parties, therefore, notice dated 7th September, 2022 was served upon the respondent in terms of the arbitration clause proposing the name of the arbitrator for resolving the disputes. He submits that in spite of service of notice, no reply was received from the respondent. It has also been pointed out by the learned counsel for the applicant that another agreement was entered into between the parties in respect of which AP/747/2022 was filed and allowed by order dated 8th December, 2022 appointing Justice Alope Chakraborti (9836260263), a retired Judge of this Court, as the sole arbitrator.

Nothing has been pointed out by the learned counsel for the respondent to dispute the above aspect of the matter. Hence, I am of the opinion, that a case for allowing the prayer for appointment of the sole arbitrator to resolve the disputes between the parties is made out. Accordingly, the AP is allowed. Justice Alope Chakraborti (9836260263), a retired Judge of this Court, is appointed as the sole arbitrator to resolve the disputes between the parties, 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.

(PRAKASH SHRIVASTAVA, C.J.)