

ORDER SHEET
AP/25/2023
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

EFCALON TIE UP PRIVATE LIMITED
VS
STARTRACK AGENCY PRIVATE LIMITED

BEFORE:
The Hon'ble JUSTICE SHEKHAR B. SARAF
Date: 30th January, 2023.

Appearance:
Mr. Mainak Bose, Adv.
Mr. Dwaipayan Basu Mallick, Adv.
Mr. Rajesh Upadhyay, Adv.
...for the petitioner

Mr. Sukrit Mukherjee, Adv.
Mr. Chunky Agarwal, Adv.
Ms. Sanchali Bhowmik, Adv.
...for the respondent

The Court: Heard counsel appearing on behalf of the parties. Judgments have been cited on behalf of the parties. I am in consonance with the judgment passed by the co-ordinate Bench of this High Court delivered by Hon'ble Justice Debangsu Basak in A.P. No.417 of 2020 (Amit Kumar Gupta vs. Dipak Prasad) wherein His Lordship has held as follows:

“18. In my view, the word “court” used in Section 29A of the Act of 1996 partakes the character of the appointing authority as has been prescribed in Section 11 of the Act of 1996 as, the Court exercising jurisdiction under Section 29A of the Act of 1996 may be required to substitute the arbitrator in a given case. Such right of substituting can

be exercised by a Court which has the power to appoint. The power to appoint has been prescribed in Section 11. Therefore, the power to substitute should be read in the context of the power of appointment under Section 11.”

In light of the above judgment that has been followed subsequently by other co-ordinate Benches, I am of the view that the High Court that has appointed an Arbitrator is the Court that would entertain the Section 29A under the Act.

In light of the same, the application is allowed and the mandate of the Arbitrator is extended for a period of six months.

Since no affidavits have been used by the parties, the allegations made in the petition are deemed to be denied and disputed.

AP/25/2023 is, accordingly, disposed of.

(SHEKHAR B. SARAF, J.)