

ODC-6

ORDER SHEET

AP/53/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

SHERISHA ROOFTOP SOLAR SPV THREE PRIVATE LIMITED
VS
THE UNION OF INDIA AND ANR

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date : 22nd February, 2023

Appearance:

Mr. Rohit Das, Adv.

Mr. Kishwar Rahman, Adv.

Mr. Preetam Majumdar, Adv.

Mr. Nilanjan Bhattacharjee, Adv.

Mr. Anup Dasgupta, Adv.

Ms. Soni Ojha, Adv.

The Court: This is a Section 9 application wherein the petitioner challenges the invocation of a bank guarantee.

It is to be noted that the bank guarantee has already been invoked on 23rd December, 2022 and the money has already gone out of the petitioner's bank account. This petition has been filed on 30th January, 2023.

Certain arguments have been made on behalf of both the parties but without going into the merits of the same, I am of the view that these are issues

that should be decided before the Arbitrator. Both parties have consented to appointment of an Arbitrator by this Court.

Accordingly, I appoint Justice Indira Banerjee, Former Judge of Supreme Court as the sole Arbitrator to resolve the disputes 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.

I make it clear that this Court has not gone into the merits of the matter and parties are at liberty to file an appropriate Section 17 application before the Arbitrator for appropriate relief including the relief for status quo ante which would be considered by the Arbitrator after considering the merits of the case.

AP/53/2023 is, accordingly, disposed of.

(SHEKHAR B. SARAF, J.)