

ODC-20

ORDER SHEET

AP/68/2023

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

NEW KHWAJA OPTICAL AND ANR.
VS
TATA CAPITAL FLINANCIAL SERVICES LIMITED

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date : 5th April, 2023

Appearance:

Mr. Sujit Banerjee, Adv.

Mr. Nilay Sengupta, Adv.

...for the petitioner

Ms. Archana Chowdhury, Adv.

...for the respondent

The Court: This Section 34 application emanates from an ex parte award passed by an Arbitrator who has been unilaterally appointed.

In light of the judgments in *Perkins Eastman Architects DPC v. HSCC (India) Limited* reported in (2020) 20 SCC 760, *TRF Limited v. Energo Engineering Projects Ltd.* reported in (2017) 8 SCC 377 and in *Bharat Broadband Network Ltd. v. United Telecoms Ltd.* reported in (2019) 5 SCC 755 and also a judgment passed by me in the matter of *Cholamandalam Investment and Finance Co. Ltd. versus Amrapali Enterprises and Anr* in EC/122/2022, the award is a nullity and is, accordingly, set aside.

Accordingly, this Court appoints Siddhartha Lahiri, Advocate, Mob. No.9830082839 as the sole Arbitrator in the matter.

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.

AP/68/2023 is, accordingly, disposed of.

(SHEKHAR B. SARAF, J.)