

AP/91/2023

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTIONM/S. ASMA TANNERY AND ORS.
VERSUS
ZAFAR MUMTAZ AND ORS.BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
DATE : 2ND MARCH, 2023APPEARANCE:
Mr. Bhupendra Gupta, Advocate
Mr. Ayan Dutta, Advocate
Mr. S. Mitra, Advocate
Mr. Hamidul Haque, Advocate
....for the petitioners
Ms. Monika Kalra, Advocate
Mr. F. Ghaffar, Advocate
...for the respondents

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 applicants has pointed out that the agreement dated 16th September, 2014 was entered into between the parties which contains the following arbitration cause:-

“If any disputes or differences arising out of or in connection with this agreement the same shall be attempted to be mutually settled by the parties through mediation and if such efforts do not succeed within a reasonable time the matter shall be referred to Arbitration who is appointed by the parties hereto by mutual consent as the sole name Arbitrator whose decision shall be final, binding and conclusive on the parties. The Arbitrator shall have the power to make and publish an interim Award. Such arbitration proceeding shall be held at Kolkata and the official language shall be English. The arbitration proceedings shall be conducted in accordance with the provisions contained under the Arbitration and Conciliation Act, 1996 as amended from time to time.”

He has further submitted that since disputes had arisen between the parties, therefore, the applicants had sent notice dated 16th January, 2023 in terms of Section 21 of the Act and the same was replied on 30th January, 2023 without disputing the arbitration clause. He has also pointed out that the

respondents themselves have filed the application under Section 9 of the Act before the competent Court.

Learned counsel for the respondents has not disputed the above aspect but his submission is that the respondents wish to raise counter-claim. The same can be raised before the Arbitrator in accordance with law. Hence, considering the aforesaid submissions, I am of the opinion that since the dispute exists between the parties and due notice under Section 21 of the Act has also been served, 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. Mr. Shyamal Roy Chowdhury [9434243590], an Advocate 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.)