

IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL JURISDICTION

AP/97/2023

M/S. UGRO CAPITAL LIMITED
VERSUS
SRI VIGNA VINAYGAR PHARMA AND ORS.

BEFORE:

HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA

Date: 16th March 2023.

APPEARANCE:

Mr. Rohit Banerjee, Advocate
Ms. Shrayashee Das, Advocate
... for applicant.

The Court:- The affidavit of service filed by the applicant is taken on record.

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

Learned counsel for the applicant has pointed out that the facility agreement dated 26th June 2021 was executed between the parties, which contained the following arbitration clause:-

“18.15 ARBITRATION

In the event of any dispute or differences arising under this Agreement including any dispute as to any Outstanding Amounts, the real meaning or purport hereof (“Dispute”), such Dispute shall be resolved by way of arbitration. Such arbitration shall be conducted in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 or any amendment or re-enactment thereof by a single arbitrator to be appointed solely by the Lender. The venue and seat of arbitration shall be Kolkata and the arbitration shall be conducted in English language.”

He has further pointed out that the dispute had arisen, therefore, the notice dated 15.11.2022 in terms of Section 21 of the Act was served upon the respondent. Thereafter, exchange of communication took place and

the respondents have not denied the execution of the agreement, but the arbitrator could not be appointed as no consensus was arrived at as regards the number of arbitrators and in respect of physical or virtual form of arbitration. He has also referred to the subsequent communication dated 13th February 2023 whereby the respondents had declined the prayer for arbitration.

In spite of service of notice, no one has appeared for the respondent in the present AP and therefore, the above plea of the applicant has remained uncontested. Hence, it is found that the arbitration agreement exists between the parties and on account of subsisting dispute, Section 21 has been invoked.

Thus, in the above circumstances, a case for allowing the prayer for appointment of sole arbitrator to resolve the dispute between the parties is made out. Accordingly, AP is allowed. Mr. Subhasis Sengupta, [9830855276] Advocate of this Court, is appointed as sole arbitrator to resolve the dispute between the parties, subject to submission of declaration by the proposed 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.]