

OD - 11

AP/117/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

ARRJAVV WAREHOUSING

-Versus-

TCI SUPPLY CHAIN SOLUTIONS (A
DIVISION OF TRANSPORT
CORPORATION OF INDIA LIMITED)

BEFORE :

THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA

Date : 18th April, 2023

Appearance :

Mr. Rajarshi Dutta, Adv.
Mr. Deepak Kumar Jain, Adv.
Mr. Sarbajit Mukherjee, Adv.
...for the petitioner

Mr. Siddhartha Sharma, Adv.
Mr. Rishav Dutt, Adv.
Mr. Rohit Bhattacharjee, Adv.
...for the respondent.

The Court : At the outset, learned counsel for the respondent submits that the existence of the arbitration clause is not denied by the respondent. However, learned counsel for the respondent objects to an order being passed under Section 11 of the Arbitration and Conciliation Act, 1996 on several grounds. First, it is contended that the agreement on the basis of which the dispute has arisen is insufficiently stamped and is an unregistered document. As such, arbitration cannot be proceeded with on the basis of such an agreement. Moreover, learned counsel also submits that the claim raised by the petitioner is otherwise not maintainable in law.

However, in his usual fairness, learned counsel for the respondent submits, on instruction, that there is no qualms on the part of the respondent if all the questions regarding maintainability, stamp as well as registration are kept open along with the merits of the matter and the dispute is referred to arbitration.

In view of such submission, A.P.No.117 of 2023 is disposed of by appointing Justice Tapan Kumar Dutt, a former Judge of this Court (Mobile No. 9831066037), as the sole Arbitrator to decide the disputes between the parties, subject to obtaining declaration/consent under Section 12 of the Arbitration and Conciliation Act, 1996.

However, it is made clear that all questions and issues in dispute between the parties, including the objections as to the document being insufficiently stamped and unregistered, as well as the maintainability of the claim of the petitioner, are kept open to be decided by the Arbitrator. This Court, while deciding the application under Section 11 of the 1996 Act, has not gone into the merits of any of the said questions.

(SABYASACHI BHATTACHARYYA, J.)