

ORDER SHEET

AP/141/2023

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

M/S. UGRO CAPITAL LTD.
Versus
JUMBO FINVEST (INDIA) LTD. AND ORS.

BEFORE:
The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA
Date : 28th August, 2023.

Appearance:
Mr. Rohit Banerjee, Adv.
Ms. Shrayashee Das, Adv.
Mr. Roshan Kumar Thakur, Adv.
...for the petitioner

Mr. Jit Ray, Adv.
...for the respondents

The Court: The affidavit-in-reply is taken on record.

The petitioner seeks further orders in terms of passing a direction on the respondents to disclose the book debts which are, in effect, list of receivables of the respondents. The book debts form part of the first Schedule to the loan agreement dated 23rd May, 2019 and provides for hypothecation of book debts to the extent of 1.10 times of the facility amount by way of security cover.

Learned counsel appearing for the petitioner relies on earlier orders passed by the Court directing the respondents to disclose the book debts.

Learned counsel appearing for the respondents submits that the petitioner already has an order of injunction in his favour passed by a Co-ordinate Bench on 28th March, 2023 by which the respondents were restrained from withdrawing any money from the bank accounts mentioned in Annexure-H without keeping an amount of approximately Rs.5 crores aside. Counsel submits that the respondents have however not taken any steps for initiation of arbitration.

Section 9(2) of the 1996 Act mandates that arbitral proceedings shall be commenced within 90 days from the date of an order passed under Section 9(1) or within such further time as the Court may determine. In the present case the interim order is dated 28th March, 2023; hence, arbitral proceedings should have commenced from 27th June, 2023. It appears that the petitioner invoked the arbitration clause in the loan agreement by way of a notice under Section 21 of the Act on 8th May, 2023 but the respondents did not reply to the said notice. Hence, this Court deems it fit to ensure that the mandate of Section 9(2) of the Act is complied with.

Since counsel appearing for the parties are keen to have an Arbitrator appointed by the Court in aid of initiating the arbitration proceedings as expeditiously as possible, Mr. Asok Kumar Ganguly, former Judge of the Supreme Court is appointed as the Arbitrator to resolve the disputes and differences between the parties.

The petitioner's claim is approximately Rs.5.06 crores. The Court is taking the liberty of appointing an Arbitrator since the petitioner has already

initiated the process by issuing a notice under Section 21 of the Act as far back on 8th May, 2023.

The petitioner shall carry the remaining disputes to arbitration and seek necessary orders if the petitioner is so advised.

The order passed by the Co-ordinate Bench on 28th March, 2023 shall remain in force until eight weeks from the initiation of the arbitration proceedings.

The arbitration shall be initiated within two weeks from today.

The Arbitrator's fees shall be decided by the parties.

AP/141/2023 is disposed of in terms of the above.

(MOUSHUMI BHATTACHARYA, J.)