

ORDER SHEET

AP/142/2023

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

SHALIMAR PELLET FEEDS LIMITED
Vs
SMT. PRAMILA BISWAS AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 4th April, 2023.

Appearance:

Mr. Ayan Kumar Boral, Adv.

...for the petitioner

The Court: Learned Counsel for the petitioner contends that despite service, the respondents are avoiding appearing in Court.

The affidavit of service filed today be kept on record. It transpires from the same that the intended service on the respondents was refused, which tantamounts to good service in law. Hence, the application under Section 11 is taken up for hearing in the absence of the respondents.

It is seen from Clause 19 of the relevant agreement dated June 1, 2015 that there is an arbitration clause in the event of any difference, dispute or question arising between the parties to the said agreement in any way relating to or arising out of or connected with the said agreement. It is further agreed in the said clause that such arbitration shall be in accordance with the Arbitration and Conciliation Act, 1996.

It is further seen from the materials annexed to the application that a previous appointment resulted ultimately in the designated Arbitrator

having expressed his opinion that on personal ground he is not in a position to continue with the matter and seeks to withdraw from the office of the Arbitrator.

The dispute in question squarely pertains to the agreement. Moreover, since there was a previous appointment under Section 11 of the 1996 Act, there cannot be any reason to refuse the prayer of the petitioner in view of the withdrawal of the erstwhile Arbitrator.

Hence, AP/142/2023 is disposed of, thereby appointing Justice Md. Mumtaz Khan, a former judge of this court, residing at 'Merlin River View', 15, Kabitirtha Sarani, Flat – Tide 11E, Watgunj, Khidirpur, Kolkata – 700 023 (Mobile No. 8336932293 / 7439185970), as the sole arbitrator to decide the dispute between the parties, subject to obtaining his consent and declaration under Section 12 of the Arbitration and Conciliation Act, 1996.

The newly appointed Arbitrator shall communicate with the erstwhile Arbitrator for handing over all the original records to the former by the latter.

(SABYASACHI BHATTACHARYYA, J.)