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ORDER SHEET  
EC/109/2021  
IN THE HIGH COURT AT CALCUTTA  
ORDINARY ORIGINAL CIVIL JURISDICTION  
ORIGINAL SIDE

ADITYA BIRLA FINANCE LIMITED  
VS  
OSIAN COMMOTRADE PRIVATE LIMITED AND ORS.

BEFORE:  
The Hon'ble JUSTICE SHEKHAR B. SARAF  
Date: 18<sup>th</sup> May, 2023.

*Appearance:*  
*Mr. Pratip Mukherjee, Adv.*  
*Mr. Ranjit Singh, Adv.*  
*Mrs. Pooja Sett Chakraborty, Adv.*  
*...for the petitioner*  
  
*Mr. Hareram Singh, Adv.*  
*Ms. Shilpa Das, Adv.*  
*...for the respondents*

The Court: Heard counsel appearing on behalf of the parties. It appears that the execution application arises out of an arbitration award that was passed by an Arbitrator who was unilaterally appointed by the parties.

Accordingly, keeping in mind the judgment passed by the Hon'ble Supreme Court in *TRF Limited v. Energo Engineering Projects Ltd.* reported in (2017) 8 SCC 377 and in *Perkins Eastman Architects v. HSCC (India) Limited* reported in (2019) 9 SCC Online SC 1517 and a judgment of this Court in *Cholamandalam Investment and Finance Co. Ltd. versus Amrapali Enterprises and Anr* in

*EC/122/2022*, the execution of such an award is impermissible in law as the arbitration award is a nullity.

In light of the same, the execution application is dismissed.

Since both parties have not agreed for appointment of a new Arbitrator, this Court leaves the remedy of the disputes in the hands of the parties.

(SHEKHAR B. SARAF, J.)