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

AP/176/2023

DINESH KUMAR PANDIT

-Versus-

THE PRINCIPAL HINDI BALIKA
VIDYAPITH AND ANR.

BEFORE :

THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA

Date : 2nd May, 2023

Appearance :

Mr. Amit Sinha, Adv.

Mr. Lalratan Mondal, Adv.

...for the petitioner.

Mr. Suresh Mitruka, Adv.

Mr. Ayush Mitruka, Adv.

Ms. Sayantani Ghosh, Adv.

..for the respondent.

The Court : Certain objections have been taken at the outset by learned counsel for the respondent to the present application under Section 11 of the Arbitration and Conciliation Act, 1996.

First, there is no proper invocation under Section 21 of the 1996 Act. Secondly, in view of the latest judgement of the Hon'ble Supreme Court in the latest *NN Global's* case, an unstamped and unregistered agreement for arbitration cannot be entertained for the purpose of Section 11 of the 1996 Act to refer the matter to arbitration. Thirdly, it is argued that, contrary to the scheme framed by the Hon'ble Chief Justice of this Court, no original or certified copy of the purported

arbitration agreement has been filed along with the application. That apart, it is argued that the prayers in the application are also somewhat defective.

It is seen from even a cursory perusal of the purported notice under Section 21, annexed to the present application, that the respondent is absolutely justified in arguing that the same does not come within the purview of an invocation notice within the contemplation of Section 21 of the 1996 Act. Even without going into such issues, which may be equally valid, though, the entire process of invocation of the petitioner is bad in law and, as such, cannot give rise to Section 11 of the 1996 Act. Accordingly, AP No.176 of 2023 is dismissed as not maintainable, with liberty to the petitioner to re-start the entire process from the stage of invocation of arbitration under Section 21 of the 1996 Act.

(SABYASACHI BHATTACHARYYA, J.)