

OD 7

AP/178/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ENVIRO SYSTEM AND EQUIPMENT INCORPORATE
VS
NIKHIL MONDAL @ NIKHIL CHANDRA MONDAL AND ANR.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date: 17th April, 2023.

Appearance:
Mr. Shaunak Ghosh, Adv.
Ms. Aditi Dutta, Adv.
...for the petitioner

Mr. Shourjyo Mukherjee, Adv.
Mr. S. Sarkar, Adv.
...for the respondents

The Court: The present application has components of Section 11 and Section 14 of the Arbitration and Conciliation Act, 1996. In the present case, pursuant to the arbitration clause in the agreement between the parties, two Arbitrators were nominated, one by each of the parties, who were to appoint a third Arbitrator as the presiding Arbitrator/Umpire.

However, it is submitted that the Arbitrator, nominated by the respondents subsequently, did not attend the sittings of Tribunal nor did the respondents appear. Although there was peremptory direction for filing of pleadings, it is

submitted that due to lack of quorum the Tribunal could not function at all and the same may be dissolved and a new Arbitrator be appointed to resolve the disputes between the parties.

Learned counsel appearing for the respondents, in his usual fairness, concedes to the fact that the Arbitrator appointed by the respondents did not attend arbitral sittings. It is submitted that a sole Arbitrator may be appointed.

Since it transpires that the dispute is arbitrable, as already an Arbitral Tribunal had been appointed previously but the said Tribunal appointed earlier is not functioning at all, it would be fit and proper to dissolve the said Arbitral Tribunal and to have a new Arbitrator to resolve the disputes between the parties.

Accordingly, AP/178/2023 is allowed, thereby dissolving the previous Arbitral Tribunal, appointed earlier to resolve the dispute between the parties, and appointing Ms. Sumita Shaw (Mobile No. – 9836111231), an Advocate practising in this Court, as the sole Arbitrator to resolve the disputes between the parties, subject to obtaining consent/declaration under Section 12 of the 1996 Act.

(SABYASACHI BHATTACHARYYA, J.)