

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

AP/188/2023

BHARAT PETROLEUM CORPORATION LTD.
VS.
M/S. OM SYNDICATE AND ORS.

BEFORE :
THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
Date : 18th April, 2023

Appearance :
Mr. Puspendu Chakraborty, Mr. Suman Dey, Advs.
.....for petitioner.

The Court : -Despite service, none appears for the respondent nos.2 to 4. The service sought to be made on the respondent no.1 has not fructified, since the envelope sent to the said respondent has returned with the endorsement "insufficient address". However, it is seen from the affidavit service that the other respondents are partners of the respondent no.1 firm and have been properly served. As such, it is deemed that substantial representation is there for the respondents.

It appears from Clause 38 of the agreement between the parties that the same provides for arbitration and can be deemed to be an arbitration clause within the contemplation of the Arbitration and Conciliation Act, 1996.

The invocation notice under Section 21 sent by the petitioner is annexed as Annexure P/5 at page 56 of the present petition.

It is also seen that the stamp on the postal receipt concerned has also been given in the annexures.

Since service has been effected on all the partners and as it is found that the notice was sent to the appropriate address, after the lapse of 30 days thereafter it can very well be deemed that the respondents have not agreed to the appointment of any arbitrator.

Moreover, it appears that the scope of the dispute raised between the parties falls within the purview of the arbitration clause and is inherently arbitrable.

Accordingly, AP/188/2023 is allowed, thereby appointing Mr. Rupak Ghosh, an Advocate practising in this Court and a member of the Bar Library Club as the sole arbitrator to resolve the dispute between the parties, subject to obtaining declaration/consent from the proposed arbitrator under section 12 of the Arbitration and Conciliation Act, 1996.

(SABYASACHI BHATTACHARYYA, J.)