

OD 8

ORDER SHEET
APOT/88/2023
IA NO:GA/1/2023
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

TARUN BAREI
VS
SREI EQUIPMENT FINANCE LIMITED AND ORS.

BEFORE:
The Hon'ble JUSTICE SHEKHAR B. SARAF
Date: 24th April, 2023.

Appearance:
Mr. Pratip Mukherjee, Adv.
Mr. Surajit Basu, Adv.
Ms. Barnali Mukherjee, Adv.
Mr. Manoj Kurmi, Adv.
...for the appellant

Mr. Ayan Dutta, Adv.
Mr. Rajib Mullick, Adv.
Ms. Sonia Mukherjee, Adv.
Ms. Ayantika Saha, Adv.
...for the respondents

The Court: This is a Section 37 application arising out of an order dated 6th February, 2023 by an Arbitrator who was unilaterally appointed by the respondents. Since the arbitration proceedings have commenced after coming into effect of 2015 amendment Act, the unilateral appointment is bad in law and any orders passed by the Arbitrator are, accordingly, required to be held as a nullity. The mandate of the Arbitrator is accordingly terminated and the orders passed by him are declared a nullity.

The parties have agreed that the Court appoints an Arbitrator in this matter. Accordingly, Mr. Vivek Basu, Advocate (Mobile No. 9830014375), is appointed as sole Arbitrator to resolve the dispute between the parties. The appointment is subject to submission of declaration by the Arbitrator in terms of Section 12(1) in the form prescribed in the Sixth Schedule of the Act before the Registrar, Original Side of this Court within four weeks from today.

Let this order be conveyed to the Arbitrator by the Registrar, Original Side forthwith.

The appellant herein is directed to not encumber the equipment that is lying with them in any manner. Furthermore, they are enjoined from creating any third party rights of the said equipment. They are also directed to inform the financier of the whereabouts of the said equipment.

The above injunction shall continue for a period of twelve weeks from date or until further order passed by the learned Arbitrator whichever is earlier.

The above order shall not prevent the appellant from continuing with the normal day-to-day running of the said equipment.

APOT/88/2023 and IA No.GA/1/2023 are, accordingly, disposed of.

(SHEKHAR B. SARAF, J.)