

OD – 7

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

AP/230/2023

PROPERTYMEN INFRASTRUCTURES
PRIVATE LIMITED

-Versus-

ADONIS PROJECTS PRIVATE LIMITED

BEFORE :

THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA

Date : 27th April, 2023

Appearance :

Mr. Suddhasatva Banerjee, Adv.

Ms. Souvik Majumdar, Adv.

Mr. Shamoli Ghosh, Adv.

...for the petitioner.

Mr. Sushanta Dutta, Adv.

Mr. A.K. Chatterjee, Adv.

..for the respondent.

The Court : Learned counsel for the petitioner contends that after the disputes having arisen between the parties within the scope of the arbitration clause in the concerned contract, a reference was made by the petitioner under Section 21 of the Arbitration and Conciliation Act, 1996 on February 13, 2023. In view of no agreement with regard to the appointment of Arbitrator being arrived at, the present application has been moved.

Learned counsel for the respondent submits that the allegations made in the notice under Section 21 of the 1996 Act are not specific. Moreover, it is submitted that a document

dated April 12, 2023, which has been issued apparently after the commencement of the arbitral proceeding, has been annexed to the present application. It is submitted that the same cannot be looked into for the purpose of deciding the dispute, without giving an opportunity of rebuttal to the respondent.

As regards the first objection taken, the notice under Section 21 of the 1996 Act need not contain the details and particulars of the pleadings since the same is merely for the purpose of invocation of the arbitration clause.

As regards the second objection, the Court, under Section 11 of the 1996 Act, is not sitting in adjudication of the matter on merits and, as such, the documents annexed to the present application are not germane for adjudication of the issues before the Arbitrator.

Since there is an arbitration clause which is prima facie valid and the dispute falls within the scope of the said clause, the matter ought to be referred to arbitration. Accordingly, AP No.230 of 2023 is allowed, thereby appointing Mr. Swarup Pal (Mobile No.8910903534), an Advocate of this Court as an Arbitrator to resolve the disputes between the parties. This order shall be subject to obtaining declaration/consent from him under Section 12 of the 1996 Act.

(SABYASACHI BHATTACHARYYA, J.)