

OCD-10

ORDER SHEET

AP/243/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

THE INDURE PRIVATE LIMITED
VS
BHARAT HEAVY ELECTRICALS LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 13th June, 2023

Appearance:

Mr. Rupak Ghosh, Adv.

Mr. Shoham Sanyal, Adv.

Mr. Soumyajyoti Nandy, Adv.

Mr. Deepankar Thakur, Adv.

..for the petitioner

Mr. Rohit Das, Adv.

Ms. Kishwar Rahman, Adv.

Mr. Preetam Majumdar, Adv.

..for the respondent

The Court: This is an application under Section 15 of the 1996 Act for substitution of an Arbitrator.

The learned Arbitrator, who was a senior member of the Bar and appointed on 9th December, 2019, unfortunately passed away on 27th July, 2022. The arbitration could not continue after that. The Advocate of the petitioner accordingly issued a letter on the respondent on 9th March, 2023 referring to the arbitration clause in the general conditions of contract nominating an Arbitrator in place and stead of the erstwhile Arbitrator in terms of the Section 11 of the Act.

The respondent did not reply to the said letter.

Hence, a situation has arisen where the Court can and should step in under Section 15 of the Act which under sub-section (1) gives certain additional circumstances apart from those referred to in Sections 13/14 terminating the mandate of an Arbitrator.

Mr. Pinaki Chandra Ghose, former Judge of this Court and of the Supreme Court, is appointed as the Arbitrator, subject to the learned Arbitrator submitting his no-objection in the procedure and form as required under Section 12 and the Schedules to The Arbitration and Conciliation Act, 1996. The consent shall be submitted within three weeks to the Registrar, Original Side of this Court and this order shall be communicated to the Arbitrator forthwith.

The contention made on behalf of the respondent on the question of the alleged delay on the part of the petitioner in filing the statement of claim is noted. The arbitration proceedings will commence and continue from the stage at which the proceedings were stalled i.e. 11th July 2022.

AP/243/2023 is disposed of in terms of the above.

(MOUSHUMI BHATTACHARYA, J.)