

OD-15

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

AP/278/2023

STERLING AND WILSON PVT LTD.
VS
M/S SIMPLEX INFRASTRUCTURE LIMITED

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 16th May, 2023

Appearance:
Mr. Shambhu Prasad, Adv.
Mr. Sobhan Kumar Pathak, Adv.
...for the petitioner

Mr. Snehashis Sen, Adv.
...for the respondent

The Court:- As rightly submitted by learned counsel for the petitioner, Clause 25 of the relevant work order issued to the petitioner by the respondent clearly provides for arbitration. Learned counsel for the petitioner fairly submits that there was a previous application in similar tune under Section 11 of the Arbitration and Conciliation Act, 1996, which was rejected with liberty to the petitioner to exhaust the prior remedy before arbitration and to file afresh. In the meantime, after such rejection, the petitioner has exhausted the prior provision of seeking amicable settlement by mutual dialogue, which has failed.

Accordingly, the present application has been moved for appointment of an arbitrator. It is further contended that although the name of an arbitrator was suggested by the petitioner, the respondent did not convey its consent to such name, necessitating this application.

Heard learned counsel for the parties. Although the respondent formally opposes the averments made in the application under Section 11 of the 1996 Act, there is no serious dispute as regards the appointment of arbitrator as such. Upon perusal of the relevant clause, and the application, it is clear that the dispute which has arisen between the parties at present falls within the purview of the arbitration clause and is otherwise arbitrable.

Hence, AP/278/2023 is allowed, thereby appointing Justice Prasenjit Mandal (Mobile No. 9836268266), a former Judge of this Court, as the sole arbitrator to resolve the disputes between the parties, subject to obtaining his declaration/consent under Section 12 of the Arbitration and Conciliation Act, 1996.

(SABYASACHI BHATTACHARYYA, J.)