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

AP/292/2023

JAYA INDUSTRIES
VS
MOTHER DAIRY CALCUTTA AND ANR.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 17th May, 2023

Appearance:
Mr. Snehashis Sen, Adv.
...for the petitioner

Mr. Bhaskar Prasad Vaisya, Adv.
Mr. Joydeep Banerjee, Adv.
Mr. Nilay Baran Mandal, Adv.
...for the respondents

The Court:- Learned counsel for the petitioner places reliance on Clause 18 of the agreement between the parties in the form of work order dated September 26, 2015, within the contemplation of which the present dispute between the parties has arisen.

Learned counsel appearing for the respondents does not object to the arbitrability of the issue, but contends that Clause 18 specifically stipulates that the parties agreed for reference of disputes to sole arbitration of the Managing Director of the West Bengal Co-operative Milk Producers' Federation Limited. However, since there is consensus between the parties on the same and there may be a subsequent aspersion with regard to ineligibility of the named arbitrator in view of the provisions of Section 12 of the Arbitration and

Conciliation Act, 1996, it would only be appropriate if a different person is appointed as an arbitrator.

As there was a previous application under Section 9 of the 1996 Act between the parties and the arbitrability of the issue was not disputed therein, AP/292/2023 is taken up for disposal.

Learned counsel for the respondents suggests the name of Justice Subhra Kamal Mukherjee, a former Judge of this Court to which the petitioner does not object.

Hence, AP/292/2023, is allowed, thereby appointing Justice Subhro Kamal Mukherjee (Mobile No. 7022891675/9830929722), a former Judge of this Court and the former Chief Justice of the Karnataka High 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.)