

OCD-10

ORDER SHEET

AP/379/2023

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

WELCOME RETAIL PRIVATE LIMITED
VS
AIRPORTS AUTHORITY OF INDIA

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 3rd July, 2023

Appearance:

Mr. Reetobroto Mitra, Adv.

Mr. Rahul Singh, Adv.

Mr. Suhrid Sur, Adv.

The Court: The Agreement is of 30th March, 2017 where the respondent has been described as the “Authority”/first party and the petitioner as the “Concessionaire”. The arrangement was that the petitioner would act as the middleman for providing space to retailers in Calcutta Airport for which the petitioner, as the “Concessionaire”, would pay the agreed amount of money to the respondent/Authority. The petitioner says that the petitioner made payment of the agreed amounts while the respondent says otherwise. The dispute would further be evident from the fact that the respondent invoked the petitioner’s bank guarantee sometime in March, 2023 and the petitioner was further directed to renew the bank guarantee failing which the respondent would terminate the Concession Agreement.

The arbitration clause is contained in Clause 22.1 of the said Agreement and provides for a sole Arbitrator to resolve the disputes between the parties.

The petitioner invoked the arbitration clause by a letter dated 26th April, 2023; the respondent replied to this letter on 20th June, 2023. Both the documents are before the Court.

The only point raised by learned counsel appearing for the respondent is that the petitioner should continue to perform the terms of the Agreement with regard to making payments to the respondent in terms of Clause 22.2.4 of the Agreement.

This Court is of the view that the rights and liabilities of the parties in terms of the Agreement will now be decided by the Arbitrator who will be appointed by the Court since both the conditions for such an order have been satisfied.

AP/379/2023 is accordingly allowed and disposed of by appointing Mr. Chittatosh Mukherjee, former Chief Justice, Bombay High Court (Mob. No. – 9163937563) to act as the sole Arbitrator for resolving the disputes and differences between the parties subject to the Arbitrator communicating his consent in the prescribed form and under the relevant provisions of the 1996 Act to the Registrar, Original Side within three weeks from date.

The petitioner shall communicate this order to the Arbitrator forthwith.

(MOUSHUMI BHATTACHARYA, J.)

bp.