

OCD-3, 4 & 5

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
(COMMERCIAL DIVISION)

IA No.GA 1 of 2023
In
CS 127 of 2023
MR. MANOJ AGARWALA
VS.
INDIAN POTASH LIMITED & ANR.

IA No.GA 2 of 2023
In
CS 127 of 2023
MR. MANOJ AGARWALA
VS.
INDIAN POTASH LIMITED & ANR.

IA No.GA 3 of 2023
In
CS 127 of 2023
MR. MANOJ AGARWALA
VS.
INDIAN POTASH LIMITED & ANR.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 26th July, 2023.

Mr. Arik Banerjee, Mr. Ramendu Agarwal, Advocates
for the plaintiff.

Mr. Ashim Kr. Roy, Mr. Suvam Sinha, Advocates
for the defendant no.1.

The Court : Two affidavits of service filed in Court today
respectively in GA 1 of 2023 and GA 2 of 2023 are taken on record.

GA 1 of 2023 is an application by the plaintiff inter alia for attachment before judgment. GA 2 of 2023 is also an application by the plaintiff inter alia for judgment on admission.

GA 3 of 2023 is an application by the defendant no.1 under the provision of Sections 5 and 8 of the Arbitration and Conciliation Act, 1996 for relegating the disputes being the subject matter of the suit to arbitration.

The plaintiff says that the suit is otherwise maintainable as the arbitration clause contained in the agreement between the plaintiff and the defendant no.1 does not create a complete bar in the filing of the suit. The plaintiff, however, says that he is agreeable to go to arbitration. The defendant no.1 is also agreeable to go to arbitration.

In the aforesaid facts and circumstances, by consent of parties the dispute being the subject matter of the suit is referred to arbitration. The consent is given by the parties through their respective Advocates upon specific instruction. Further by consent of parties, Mr. Sakya Sen, learned Advocate is appointed as the sole Arbitrator to enter into reference and adjudicate the disputes being the subject matter of the suit. The remuneration of the Arbitrator, the content of the proceeding and all other formalities shall be in terms of the Arbitration and Conciliation Act, 1996 and the rules framed thereunder. Since the parties have agreed to go to arbitration, before any substantive hearing of any interlocutory application, the plaintiff will be entitled to the refund of the court fees in view of the ratio laid down in the judgments reported in (2021) 5 SCC 1 [Manish Kumar vs. Union of India & Anr.] and (2021) 3 SCC 560 [High

Court of Judicature at Madras, represented by its Registrar General vs M.C. Subramaniam & Ors.]. The parties will be free to seek interim relief if permissible in law before the learned Arbitrator.

Since the disputes are referred to arbitration, the suit being C.S. 127 of 2023 is treated by consent of parties as on the day's list and disposed of. The applications being GA 1 of 2023 and GA 2 of 2023 are also accordingly disposed of.

In view of the order as aforesaid, GA 3 of 2023 is allowed.

(ARINDAM MUKHERJEE, J.)