

OD-3

ORDER SHEET

AP/403/2023

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

MICKY METALS LIMITED
Versus
NIRANJAN SAHA RAY

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 18th July, 2023.

Appearance:

Mr. Aniruddha Mitra, Adv.

Mr. Debraj Sahu, Adv.

Mr. Abhik Chitta Kundu, Adv.

Ms. Abhipiya Sarkar, Adv.

...for the petitioner

The Court: The affidavit-of-service is kept on record.

The respondent is not represented.

According to the facts presented to the Court, the petitioner and the respondent entered into a Distributorship Agreement on 1st August, 2020 whereby the petitioner was to supply material in the form of TMT Bars to the respondent and the respondent would distribute the goods among its retailers. The Agreement contains several terms and conditions including a schedule for payments in Clause 4 thereof. Clause 7 is the arbitration agreement with a named Arbitrator.

The parties entered into a Memorandum of Understanding on 24th February, 2021 changing certain terms of the original agreement including the name of the Arbitrator.

The disputes arose thereafter between the parties due to the respondent failing to honour its payment obligations under the Agreement and attempting to make payment by cheques which were subsequently dishonoured. The petitioner filed proceedings for dishonour of cheques under the Negotiable Instruments Act, 1881 and also invoked the arbitration clause by its notice dated 9th August, 2021. The Arbitrator entered upon the reference and the Minutes at least of the first meeting are on record.

The petitioner, realising the legal position, sought for substitution of the Arbitrator on 5th April, 2023.

The respondent has not reacted to any of the letters given by the petitioner. The petitioner claims an amount of approximately Rs.55 lakhs on account of the respondent failing to comply with the payment schedule of the agreement dated 1st August, 2020.

There is little doubt that not only is there an agreement between the parties but that there is also a dispute which needs to be resolved.

AP/403/2023 is, accordingly, allowed and disposed of by appointing Firoza Khatun, former District Judge as the Arbitrator to resolve the disputes and differences between the parties, subject to the Arbitrator communicating his/her consent in the prescribed format to the Registrar, Original Side of this Court with three weeks from date.

The petitioner will communicate this order on the Arbitrator as well as the respondent by 20th July, 2023 along the contact number of the petitioner's advocate-on-record.

(MOUSHUMI BHATTACHARYA, J.)