

OD-2

ORDER SHEET

AP/436/2023

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

BAIRY MANOHARA SWAMY
VS
THE SENIOR DIVISIONAL COMMERCIAL MANAGER EASTERN RAILWAY

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 27th July, 2023.

Appearance:

Mr. Aasif Hussain, Adv.

Mr. Purnasis Bhuniya, Adv.

...for the petitioner

Mr. Sanajit Kr. Ghosh, Adv.

Ms. Mary Datta, Adv. (VC)

...for the respondent

The Court: The dispute between the parties arises out of a Licence Agreement dated 20th February, 2017. By the said agreement the petitioner licensee was permitted to carry on a chemist stall at Howrah station. The initial period of the agreement was five years i.e., from 31.03.2017 to 30.03.2022 with a renewal clause of a further extension of three years.

The petitioner applied for extension under Clause 2.2 (renewal clause) on 3rd October, 2021 but the respondent Railway did not reply to the prayer for extension. Before the first five years expired, the petitioner applied for interim relief in the City Civil Court whereby the petitioner was granted an order dated 29th March, 2022 restraining the Railway from evicting the petitioner. This

order is subsisting as on date. The petitioner also invoked the arbitration clause contained in the Licence Agreement by way of a notice dated 28th July, 2022 which was not responded to by the Railway.

The facts show that there is not only an agreement between the parties but also a dispute which subsists as on date. The dispute hence is required to be resolved by an Arbitrator. The parties would fall under Section 11(6)(a) of the 1996 Act.

AP/436/2023 is allowed and disposed of by appointing Mr. Avidipto Tarafdar, Advocate to act as the learned Arbitrator to resolve the disputes and differences between the parties subject to the Arbitrator communicating his/her consent in the prescribed format under the 1996 Act read with the Schedules to the learned Registrar, Original Side within three weeks from date.

The advocate-on-record of the petitioner shall communicate this order on the learned Arbitrator by 29th July, 2023 with the relevant details of the contact person.

(MOUSHUMI BHATTACHARYA, J.)