

ORDER SHEET

AP/390/2022

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

M/S. URGO CAPITAL LIMITED
Versus
RAJA STORES AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 26th June, 2023.

Appearance:

*Ms. Shrayashee Das, Adv.
...for the petitioner*

*Mr. Aditya Mondal, Adv.
...for the respondents.*

The Court: The advocate-on-record of the petitioner seeks the arbitration petition to be referred to the Tribunal which, according to the advocate-on-record, was constituted on 22nd June, 2023. It is also submitted that interim orders of injunction granted by a learned Single Judge of this Court be confirmed before the matter is referred to the Arbitrator.

The respondents are represented.

Section 9(3) of the 1996 Act provides for the court not entertaining an application under Section 9(1) any further once the arbitration tribunal has been constituted, unless the court finds that circumstances exist which may not render the remedy under Section 17 possible. This position has been

diluted somewhat by the Supreme Court in *Arcelor Mittal Nippon Steel India Limited vs. Essar Bulk Terminal Limited* reported in (2022)1 SCC 712.

However, since both parties are represented and there are no circumstances existing as on date to show that Section 17 orders may not be possible from the Tribunal, AP/390/2022 is accordingly disposed of.

The interim orders granted by the Court dated 29th March, 2023 and 11th May, 2023 will continue until both the parties are before the arbitral tribunal. The continuance of the interim orders thereafter will entirely depend on the Tribunal.

(MOUSHUMI BHATTACHARYA, J.)