

ORDER SHEET

AP/476/2023

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

CIVCON CONSTRUCTION PVT. LTD.
Versus
HINDUSTAN AERONAUTICS LTD.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 31st July, 2023.

Appearance:

Mr. Snehashis Sen, Adv.

...for the petitioner

Mr. B.K. Sen, Adv.

...for the respondent

The Court: The dispute between the parties arises out of an Agreement dated 1st September, 2018 by which the petitioner was to construct an internal road at the respondent's factory at Barrackpore. The Agreement between the parties does not mention a date but the petitioner says that the contract was finalised between the parties by way of a work order issued on 1st September, 2018. The Agreement contains an arbitration clause at Clause 5 by which the disputes were to be referred to the sole arbitration of an Engineer/Officer to be appointed by the Managing Director of the respondent.

The dispute relates to project overrun cost incurred by the petitioner and the petitioner's consequent claim on loss of profits and overheads. The petitioner says that the respondent issued a Completion Certificate on 28th

October, 2021 but refused to pay the claims made by the petitioner by way of letters from 15th October, 2022 to 6th January, 2023. The claim amounts to approximately Rs.21.87 lakhs as on 1st October, 2022. The petitioner was hence constrained to issue a notice invoking the arbitration clause on 27th January, 2023 refusing to concede to the nature of the arbitration clause. The respondent did not reply to this letter.

The respondent is represented and the position taken is that the respondent does not admit to any of the claims raised in the letters. There is however no objection to the existence of the arbitration agreement.

The Court is therefore of the view that not only is there an arbitration clause governing the parties but there is also a dispute which is required to be resolved.

AP/476/2023 is allowed and disposed of by appointing Ms. Piyali Sengupta, Advocate to act as the learned Arbitrator to resolve the disputes and differences between the parties subject to the Arbitrator communicating 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 2nd August, 2023 with the relevant details of the contact person.

(MOUSHUMI BHATTACHARYA, J.)