

OCD-3

ORDER SHEET

AP/482/2023

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

ORISSA METALIKS PRIVATE LIMITED
VS
RADHA BHATTAD

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 3rd August, 2023.

Appearance:

Mr. Soumabho Ghose, Adv.

Ms. Shalini Basu, Adv.

...for the petitioner

Mr. Dyutimoy Paul, Adv.

Mr. A.K. Saha, Adv.

Mr. I. Paul, Adv.

...for the respondent

The Court: The petitioner seeks appointment of an Arbitrator under Section 11 of the 1996 Act. The Agreement from which the dispute arises is a Service Order dated 31st August, 2021 whereby the petitioner placed the order on the respondent for lifting of coal from a coal mine at Paschim Medinipur. The Service Order contains an arbitration clause. The Service Order also provides that in the event of any shortfall of the quantity or the quality of coal lifted, the petitioner would be entitled to claim monetary amounts from the respondent in the nature of damages.

The petitioner raised several notices of demand on the respondent alleging shortfall and deficient quality. The letters of demand are from 18th July, 2022 to 17th November, 2022. The petitioner thereafter was constrained to issue a notice invoking the arbitration clause under Section 21 of the 1996 Act. The notice is dated 19th April, 2023. The respondent did not reply to this notice but sent a reply on 10th July, 2023 after filing of the present application.

Learned counsel appearing for the respondent submits that there are disputes between the parties.

Given the circumstances indicated, it is clear that there is a dispute between the parties which arises out of an existing contract. Hence, an Arbitrator needs to be appointed for resolving the disputes.

AP/482/2023 is allowed and disposed of by appointing Mr. Asok Kumar Ganguly, former Judge of the Supreme Court (Mob : 9674389222) 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 4th August, 2023 with the relevant details of the contact person.

(MOUSHUMI BHATTACHARYA, J.)