

OD-3

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

AP/533/2023

SANATAN GHOSH
VS
BABA MANI FINANCE AGENCY

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 11th August, 2023.

Appearance:

Mr. Bishajib Ghosh, Adv.
Mr. Sourojit Dasgupta, Adv.
Mr. Abhishek Agarwal, Adv.
Mr. Amir Ali, Adv.
...for the petitioner

The Court:- This is an application under Section 14 of the 1996 Act for termination of the Arbitrator's mandate. The petitioner has also clubbed the application with a prayer for vacating the order passed by the learned Arbitrator on 4th May, 2023.

The grounds disclosed by learned counsel appearing for the petitioner is that the Arbitrator was unilaterally appointed and has not paid heed to the petitioner's request for considering the application for terminating the mandate under Sections 12 and 14 of the Act. Counsel submits that the Arbitrator has remained incommunicado and has not decided the application.

Adjournment is prayed for on behalf of counsel appearing for the respondent.

In any view of the matter, the application for termination of an Arbitrator's mandate under Section 14 cannot be clubbed with an application for vacating an order passed by the learned Arbitrator without first

approaching the Tribunal with the application for vacating. While the order is being dictated, counsel for the petitioner informs the Court that the petitioner wrote a letter to the Arbitrator for vacating the order dated 4th May, 2023 and followed it up with an application filed on 24th June, 2023.

There is no evidence on record to show that the petitioner followed up the said application with the Arbitrator for due consideration. The present application was filed on 8th August, 2023.

Apart from the point of law which disentitles the party to come to the Court with a prayer for termination of an Arbitrator's mandate together with an order of vacating of interim order passed by the Arbitrator without first going to the Arbitrator, the delay on the part of the petitioner and the lack of evidence does not assist the petitioner in getting the relief prayed for.

AP/533/2023 is accordingly dismissed. There shall be no order as to costs.

Needless to say, the petitioner will be at liberty of approaching the Tribunal for taking expeditious steps for deciding the application for vacating the impugned order as well as the application challenging the unilateral appointment. The learned Arbitrator is expected to take appropriate steps accordingly and preferably within eight weeks from today.

The affidavit of service is kept on records.

(MOUSHUMI BHATTACHARYA, J.)