

OD-17

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

AP/535/2023

M/S. TIRUPATI BALAJI CARGO CARRIER AND ORS.
VS
M/S. INDUSIND BANK LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 3rd October, 2023.

Appearance:

Mr. Asis Bhattacharya, Adv.

Mr. Biswajit Mitra, Adv.

Ms. Maloti Biswas, Adv.

...for the petitioners

Ms. Soni Ojha, Adv.

...for the respondent

The Court:- The only ground taken on behalf of the applicant for appointment of a new Arbitrator is that the present Arbitrator refused to meet the petitioners when the petitioners went to meet the Arbitrator in Chennai.

From the submissions made by learned counsel appearing for the petitioners, it appears that the petitioners seek termination of the Arbitrator's mandate although the prayer is for appointment of a new Arbitrator. Learned counsel also submits that the Arbitrator did not give any notice of the proceedings to the petitioners.

It also appears from the cause title that the petitioners are the respondents in the arbitration and the respondent before this Court is the

claimant in the arbitration. The cause title appears to have been replicated from the statement of claim which is being used in the arbitration.

Termination of an Arbitrator's mandate is to be found under Section 14 of 1996 Act which proceeds on the Arbitrator's failure or impossibility to act. Section 14 contains the specific grounds on which a party may seek termination on the *de jure* or *de facto* inability on the part of the Arbitrator to perform his/her functions. Section 14 also proceeds on the basis of the Arbitrator taking an inordinately long time to make the award or where the Arbitrator withdraws from the proceedings. Section 14 also harks back to Section 12(5) of the Act where there is a presumption of the Arbitrator not being neutral or independent. None of these grounds have been brought out in the application. Termination is not a matter to be granted simply for the asking. A party to an arbitration who seeks termination of the Arbitrator's mandate must make out a case of either failure or impossibility of the Arbitrator to act and fulfil his/her functions.

Since the applicant has not disclosed any such grounds, AP/535/2023 is accordingly dismissed.

There shall be no order as to costs.

(MOUSHUMI BHATTACHARYA, J.)