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

AP/590/2023

TCNS CLOTHING CO LTD
VS
T M EXPORTS PVT LTD

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : December 4, 2023.

Appearance:
Mr. Yashashwi Sundariya, Adv.
Mr. Arpit Agarwal, Adv.
...for the petitioner

The Court:- This is an application for appointment of an Arbitrator under Section 11 of the 1996 Act.

The petitioner made at least two attempts to serve the respondent. The petition was ultimately served on one of the two directors of the respondent at his residential address which is in Burrabazar, Kolkata.

The dispute arises out of a Business Management Agreement dated 20th October, 2021 by which the respondent undertook to sell and display the petitioner's products, namely, garments for women.

The advocate-on-record of the petitioner submits that the petitioner paid Rs.78 lakhs as investment into the business and an additional Rs.25.5 lakhs as security to the respondent. The petitioner also paid Rs.3.5 lakhs every

month from 20th October, 2021 till the petitioner terminated the agreement on 24th November, 2022.

The reason for termination appears to be the action taken by the police authorities on 29th July, 2022 pursuant to an order passed by the Chief Metropolitan Magistrate against the respondent company under Section 14 of the SARFAESI Act, 2002. The police has taken possession of the shop-room since that date.

The petitioner claims irreparable prejudice by reason of the events of 29th July, 2022. The petitioner invoked the arbitration clause contained in the Agreement by way of a notice dated 7th February, 2023. The respondent has failed to reply to the notice.

In answer to the Court's question on the intervening delay from February, 2023 till November, 2023, the advocate-on-record submits that the petitioner could not serve the respondent at the address in the cause title by reason of the SARFAESI Notice and thereafter had to ascertain the addresses of the directors of the respondent.

Considering the fact that there is a dispute between the parties and one that is covered by the arbitration clause in the Business Management Agreement, AP/590/2023 is allowed and disposed of by appointing Mr.Om Narayan Rai, counsel to act as the Arbitrator subject to the learned Arbitrator communicating his/her consent in the prescribed format to the Registrar, Original Side of this Court within three weeks from date.

The petitioner's advocate-on-record shall communicate this order on the learned Arbitrator by 6th December, 2023 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)

sg.