

OD-3

ORDER SHEET

AP/669/2023

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

MERAJ AHMED
VS
OSIUR RAHAMAN AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 12th October, 2023.

Appearance:

Ms. Srijani Mukherjee, Adv.

Mr. L.R. Mondal, Adv.

...for the petitioner

Mr. Debjit Mukherjee, Adv.

Ms. Susmita Chatterjee, Adv.

Ms. Dipanwita Ganguly, Adv.

Mr. K. Bhattacharjee, Adv.

Mr. Pradeep Kumar, Adv.

...for the respondent nos. 1, 3 and 4

The Court: It is clear from the submissions made on behalf of the petitioner and the respondent nos. 1, 3 and 4, all of who happen to be partners along with the respondent no.2, the initial partnership deed of 25th May, 2011 was amended on 27th February, 2013. The amended partnership deed provides for rights and obligations of the partners including that the book of accounts and other documents of the firm shall be kept at the place of business of the firm and be open to inspection by any partner or his agent. Clauses 8-10 also provide that receipts of payments and other crucial documents shall be signed

by the partners and the net profits of the business shall be divided among them.

The fact that there were indeed disputes between the parties would further be corroborated from an arbitration which commenced in May, 2022. The first Arbitrator unfortunately passed away and the nominated Arbitrator thereafter resigned. The letter of resignation, however, is suspect since the learned Arbitrator speaks of his failure to facilitate an amicable settlement between the parties.

The urgency shown for appointment of an Arbitrator is a pleading in paragraph 7 of the petition which states that the respondent no.1 withdrew a substantial sum of money through the net banking facility and also did not agree to pay income tax and GST which were statutory liabilities of the partnership firm.

The amended partnership deed contains an arbitration clause in Clause 18. The petitioner's Section 21 Notice was issued on 2nd June, 2023. The respondents' letter of 16th June, 2023 disputes the contents of the Section 21 Notice but not the arbitration Agreement.

AP/669/2023 is allowed and disposed of by appointing Mr. Sirsanya Bandopadhyay, counsel to act as the Arbitrator subject to the learned Arbitrator communicating his 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 14th October, 2023 along with the requisite details of the contact person of the petitioner.

The respondents will be at liberty to take the plea of infirmity of the deed of partnership before the learned Arbitrator.

(MOUSHUMI BHATTACHARYA, J.)

kc.