

OCD-5

ORDER SHEET

AP/682/2023

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

MOHD NAFEES UDDIN
Versus
SIMPLEX INFRASTRUCTURE LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 20th September, 2023.

Appearance:

Mr. Aritra Basu, Adv.

Mr. Sayantan Chatterjee, Adv.

Mr. Sumit Biswas, Adv.

Ms. Rajashree Bhowmick, Adv.

...for the petitioner

Mr. Abhishek Banerjee, Adv.

...for the respondent

The Court: The preliminary point raised on behalf of the respondent is answered in favour of the respondent. The point raised is that the Notice sent by the petitioner invoking the arbitration Agreement under Section 21 of the 1996 Act is dated 28th August, 2023. The respondent received this Notice on 30th August, 2023 which would be clear from the postal track report. The application was, however, filed on 15th September, 2023.

Section 11(5) of the 1996 Act provides for time to the party in receipt of a Notice for appointment of Arbitrator to respond within thirty days from the date of receipt of a request by the other party. In the present case, the application was filed before 30 days elapsed from the date of receipt of the Notice.

The petitioner is, hence, given liberty to withdraw the present application and file afresh.

AP/682/2023 is, accordingly, dismissed as withdrawn with liberty to file afresh.

(MOUSHUMI BHATTACHARYA, J.)