

OD-7

ORDER SHEET

AP/739/2023

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

MICKY METALS LIMITED  
VS.  
M/S. UNIQUE CREATION AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 16<sup>th</sup> October, 2023.

Appearance:

Ms. Susrea Mitra, Adv.  
Mr. Sauvik Kundu, Adv.  
...for the petitioner

Ms. Arijita Ghosh, Adv.  
...for the respondents

The Court: Although learned counsel appearing for the petitioner seeks to show that the parties proceed on the first Agreement executed by them on 1<sup>st</sup> January, 2020 which is a Distributorship Agreement containing an arbitration clause at Clause 7, the Notice invoking the arbitration Clause dated 10<sup>th</sup> November, 2022 does not refer to this Agreement. The notice, on the other, hand says that the Distributorship Agreement was subsequently amended on 20<sup>th</sup> December, 2020 by a Memorandum of Understanding.

Significantly enough, both the petitioner and the respondents have submitted later, through their learned counsel, that none of the parties now

give any credence to the later Memorandum of Understanding (curiously called “Memorandum of Understanding Supplementary”) and that the respondent has filed a police complaint with regard to the subsequent Memorandum of Understanding.

Learned counsel appearing for the petitioner urges the Court to focus on the first Distributorship Agreement and construe the same as the arbitration Agreement governing the parties. The material placed before the Court is, however, contrary to such submission.

This is, hence, not a case where the dispute can be made relatable to the arbitration Agreement which is the subject matter of the notice of invocation.

AP/739/2023 is, accordingly, dismissed.

There shall be no order as to costs.

The affidavit-of-service is kept on record.

(MOUSHUMI BHATTACHARYA, J.)