

OD-4

ORDER SHEET

AP/740/2023

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

VIKAS BHUWALKA
VS.
M/S. BANSAL MARBLE CENTRE AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 20th November, 2023.

Appearance:

Mr. Aniruddha Mitra, Adv.

Ms. Susrea Mitra, Adv.

Mr. Sauvik Kundu, Adv.

...for the petitioner

Mr. Emon Bhattacharya, Adv.

...for the respondents

The Court: The dispute between the parties arises out of a Memorandum of Understanding (MoU) dated 9th July, 2022 by which the petitioner as the “financial creditor” lent a sum of Rs.10 lakhs to the respondents on the terms and conditions contained in the said MoU. The respondents/“financial debtors” undertook to pay the entire settlement amount of Rs.9 lakhs to the petitioner in terms of the schedule contained in the said MoU.

Learned counsel appearing for the petitioner submits that the respondents were to repay this amount in 18 instalments, the time of which was to commence from 12th July, 2022 and that the respondents paid only 2 out of the 18 instalments and that too by way of part payment of Rs.1.25 lakhs.

The petitioner raised a demand notice on the respondents on 22nd March, 2023 for approximately Rs.9.76 lakhs and followed it up by a Notice under Section 21 of the 1996 Act on 31st March, 2023.

The respondents have not replied to this Notice.

Counsel places an order passed by this Court on 27th June, 2023 whereby the petitioner's earlier application for appointment was dismissed as being premature. The Notice dated 31st March, 2023 is pursuant to the leave granted to the petitioner.

Learned counsel appearing for the respondents submits that the respondents do not have any option but to agree to an appointment of an arbitrator.

The arbitration agreement contained in the MoU is wide enough to include the present dispute between the parties which is essentially of money due and owing to the petitioner.

AP/740/2023 is accordingly allowed and disposed of by appointing Mr. A. Awasthi, 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 22nd November, 2023 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)

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