

OCD-9

ORDER SHEET

AP/789/2023

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

PACIFIC NAVIGATION CO.
VS
SOHOM SHIPPING SERVICES PVT. LTD.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 23rd November, 2023.

Appearance:

Mr. Arkadipta Sengupta, Adv.

Mr. Tanmoy Sett, Adv.

...for the petitioner

Mr. Chandrachur Chatterjee, Adv.

...for the respondent

The Court: The subject matter of the present application for appointment of an Arbitrator under Section 11 of the 1996 Act is essentially based on the petitioner of approaching the respondent for purchase of a vessel, namely, a barge.

The parties initially entered into an agreement on 21st April, 2021 for purchase of a vessel for a consideration of Rs.3.20 crores, of which the respondent (proposed buyer) paid Rs.1.45 crores. The parties entered into a second agreement on 28th February, 2022 for a sum of Rs.4 crores which, after adjustment, made the petitioner liable for an amount of Rs.2.90 crores.

The petitioner's grievance is that although the petitioner was given the physical possession of the vessel, the respondent withheld important

documents including of registration of the vessel and Surveyor's documents. The petitioner in the meantime filed an application for interim relief under Section 9 of the 1996 Act before the learned Commercial Court at Rajarhat and obtained an interim order on 7th August, 2023 directing the respondent to maintain the status quo in respect of the vessel. The petitioner invoked the arbitration agreement, contained in the second agreement dated 28th February, 2022, on 28th August, 2023.

The respondent has not replied to this letter till date.

Learned counsel appearing for the respondent disputes the petitioner's contentions of having made certain payments in respect of the loan.

This Court is, however, of the view that this fact as well as the other contentions raised on behalf of the parties point to an existing dispute between the parties which is required to be adjudicated by an Arbitrator.

AP/789/2023 is allowed and disposed of by appointing Mr. Asok Kumar Ganguly, former Judge of the Supreme Court (Mob No. – 9674389222) 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 25th November, 2023 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)