

OCD-6

ORDER SHEET

AP-COM/19/2023

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

UGRO CAPITAL LIMITED
VS
MAA KARUNAMAYI FISH CENTER AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 21st December, 2023.

Appearance:

Mr. Ritoban Sarkar, dv.

Mr. Ranjit Singh, Adv.

Ms. Pooja Sett, Adv.

...for the petitioner

Md. Shahjahan Hossain, Adv.

Ms. Sanjida Sultana, Adv.

Mr. Prithviraj Biswas, Adv.

...for the respondents

The Court: The dispute between the parties arises out of a Loan Agreement dated 28th October, 2021 whereby the petitioner advanced approximately Rs.76.77 lakhs as loan to the respondents. The respondents were to repay the loan in 84 monthly instalments. The respondents paid 8/10 of the instalments but committed default from February, 2023. The petitioner hence recalled the loan by a letter dated 27th February, 2023.

The letter of recall gives particulars of the outstanding amounts due from the respondents. The petitioner also invoked the arbitration agreement contained in the Loan Agreement by a letter dated 26th October, 2023. The respondents have not replied to this letter despite receiving the same.

Learned counsel appearing for the petitioner submits that the respondents had defaulted on their payment obligations even before February, 2023. Counsel submits that the petitioner was hence constrained to move an application under Section 9 of the 1996 Act for interim relief which was granted by the Court on 21st June, 2023 whereby the Court appointed a Receiver to take physical possession of a residential house belonging to the respondents.

Counsel also submits that an earlier application filed under Section 11 was withdrawn on 16th October, 2023.

Learned counsel appearing for the respondents prays that the pending Section 9 application may also be taken up with the present matter and disposed of together.

The Court, however, sees no justification in allowing such prayer since the scope of the Section 9 application is totally different. The petitioner has prayed for appointment of an Arbitrator in the present application on account of disputes existing between the parties.

Considering the material shown to the Court, there is indeed a dispute existing between the parties and one that is relatable to the arbitration clause in the Loan Agreement.

AP-COM/19/2023 is, accordingly, allowed and disposed of by appointing Ms. Hasnuhana Chakraborty, Counsel to act as the Arbitrator subject to the learned Arbitrator communicating her 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 23rd December, 2023 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)