

AP/836/2022

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTIONCIVCON CONSTRUCTIONS PRIVATE LIMITED
VERSUS
HINDUSTAN AERONAUTICS LIMITEDBEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
DATE : 5th January, 2023APPEARANCE:
Mr. Abhishek Banerjee, Advocate
....for the petitioner
Mr. B. K. Sur, Advocate
...for the respondent

The Court:- This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed for appointment of arbitrator to resolve the dispute between the parties.

In the present case, learned counsel for the respondent has not disputed the following arbitration clause contained in the agreement dated 10th April, 2018:-

"In the event of any dispute arising in connection with this contract, it is further agreed that such disputes shall be referred to the sole arbitration of an Engineer Officer to be appointed by the Managing Director of the company."

It has also been pointed out by the learned counsel for the applicant that the notice in terms of Section 21 dated 28th October, 2022 was served upon the respondent invoking the arbitration clause but no response was received. Therefore, the present application was filed.

Learned counsel for the respondent has not disputed the arbitration agreement. His only contention is that the allegations made in the application on merit are incorrect.

Such an issue can always be raised before the Arbitrator at the time of adjudication of the claim. Hence, in view of the undisputed arbitration agreement and service of notice under Section 21, I am of the opinion that a

case has been made out for accepting the prayer for appointment of the sole arbitrator to resolve the dispute between the parties.

Accordingly, the AP is allowed. On consent of learned counsel for the parties, Justice Ashoke Kumar Dasadhikari, (9051024638), a retired Judge of this Court is appointed as Arbitrator to resolve the disputes between the parties, subject to submission of declaration by the Arbitrator in terms of Section 12(1) in the form prescribed in the Sixth Schedule of the Act before the Registrar, Original Side of this Court, within four weeks from today.

Let this order be conveyed to the Arbitrator by the Registrar, Original Side, forthwith.

(PRAKASH SHRIVASTAVA, C.J.)