

OD-4

ORDER SHEET

AP/849/2022

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

M/S. SIMA ENTERPRISE
Versus
SIMPLEX INFRASTRUCTURES LIMITED AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 3rd August, 2023.

Appearance:

Mr. Souvik Nandy, Adv.

Mr. Somnath Saha, Adv.

Mr. Abhishek Banerjee, Adv.

The Court: The fact that there is an ongoing dispute between the parties which is relatable to a parent work order dated 1st August, 2018 would be evident not only from the submissions made on behalf of the parties but also from the material disclosed before the Court. The contract is in the form of a work order dated 1st August, 2018 whereby the petitioner was to complete plinth level earth cutting and backfilling work for a housing project in Ranigunj. The petitioner is a sub-contractor and the respondent is the contractor of the project.

The dispute arises out of the unpaid bills which were raised by the petitioner on the respondent. The petitioner claims that the respondent failed to make any payment to the petitioner in respect of the invoices raised after 5th

April, 2021. The petitioner claims an outstanding amount of approximately Rs.19 lakhs with regard to the parent work order of 1st August, 2018.

Learned counsel appearing for the respondent/contractor submits that the parent work order was followed by at least four other work orders containing amendments to the parent work order. Counsel also points to prayer (a) of the application which takes into account not only the parent work order but the four amended work orders.

The objection raised is not material to the fact that there are payments outstanding to the petitioner. Even if the respondent's objection is taken into consideration, the quantum of outstanding amounts will at best be altered. This does not change the fact of an ongoing dispute between the parties relatable to the work order issued by the respondent on the petitioner. The work order dated 1st August, 2018 contains an arbitration clause. The petitioners also invoked the arbitration clause by sending a notice on 12.11.2022 under Section 21 of the 1996 Act. The respondents have not replied to the said notice. An Arbitrator is required to be appointed to sort out the disputes and differences between the parties. The notice under Section 21 of the Act was also issued in terms of the arbitration agreement contained in the parent work order dated 1st August, 2018.

AP/849/2022 is accordingly allowed and disposed of by appointing Mr. Supratim Laha, Advocate, to act as the learned Arbitrator, subject to the Arbitrator communicating his consent in the prescribed format to the Registrar, Original Side of this Court within three weeks from date. The

petitioner shall communicate this order on the Arbitrator by 5th August, 2023 with the relevant details of the contact person.

It is made clear that the appointment shall be in relation to the parent work order dated 1st August, 2018.

(MOUSHUMI BHATTACHARYA, J.)

bp.