

08-02-2024
Item no.10 CD
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
(Commercial Division)

FMA No.354 of 2023
Mrs. Erna Johanna Bose & Ors.

-vs-

Sunny Technologies Private Limited & Ors.
with
CAN No.1 of 2023

Mr. Utpal Bose
Mr. Ratnesh Kumar Rai
Mr. Sayantan Das
Ms. Sakshi Kejriwal
Ms. Devanshi Deora ...for the appellants

Mr. Sakya Sen
Mr. Sabyasachi Sen ...for respondents no.1 & 2

Mr. Debabrat Upadhyay
Mr. Rahul Karmakar
Ms. Munmun Mazumder
Mr. Jayant Prasad ...for respondents no.3-12

Mr. Mrinal Kanti Ghosh ...Special Officer

The Special Officer has filed a report today; copies thereof are to be circulated to all the parties.

The entire disputes between the parties have now been referred to arbitration. A learned arbitrator has already been appointed. We are told that an application under section 17 of the Arbitration and Conciliation Act, 1996 has already been filed before the learned arbitrator.

In that view of the matter, this appeal and the connected application are disposed of by directing that the interim order passed therein dated 30th November 2023 shall continue until vacated or varied by the learned arbitrator.

The contention of Mr Sen, learned advocate appearing for the developer (respondents no.1 and 2), that his clients should not be made liable to bear the fees of the Special Officer is also kept open to be raised before the learned arbitrator. All points and grounds involved in this appeal may be urged before the learned arbitrator.

While parting, we record the submission of learned advocate for respondents no.3-12 that his clients are not parties to the arbitration agreement. Since an arbitrator has been appointed to adjudicate upon the subject-matter of this appeal arising from an order under section 9 of the Arbitration and Conciliation Act, 1996, we are simply referring the matter to the learned arbitrator without going into any other question.

[I.P. Mukerji, J]

[Biswaroop Chowdhury, J]