

06.05.2024
SSS (4)

**FMAT 103 of 2024
With
CAN 1 of 2024**

**Dipti Chowdhury and Ors.
Vs.
Pradip Sapui and Ors.**

Mr. Tilak Bose, Sr. Adv.
Mr. Swatarup Banerjee, Adv.
.....For the appellants.

Mr. Amitava Ghosh,
Mr. Tapash Kumar Dey,
Ms. Saswati Ghosh Sinha, Adv.
.....For the respondent no.1.

Mr. Dripta Mazumder,
Ms. Antara Choudhury, Adv.
.....For the respondent nos. 2 to 6.

Learned counsel for the parties have taken an extremely fair view in this matter. They agree that the disputes between the parties should be resolved through the arbitral tribunal.

The respondent no. 1 has already commenced arbitral proceedings by issuing a notice under Section 21 of the Arbitration and Conciliation Act, 1996.

By consent of learned counsel for the parties, we appoint Mr. Arindam Banerjee, Advocate, (m) 9831704444 as the learned arbitrator to adjudicate upon the disputes between the parties in and make and publish an award within four months from the date of

service of the award upon him or such further time as may be agreed upon by the parties or granted by the court. The arbitrator shall be paid a consolidated remuneration of Rs.60,000/- to be shared equally between the appellants and the respondent nos. 2 to 6 on one hand and the respondent no. 1 on the other hand and a further sum of Rs.40,000/- to be so shared, if time to publish the award is to be extended. Other costs of the arbitration as determined by the learned arbitrator are to be borne by the parties.

Once the learned arbitrator enters upon the reference, the parties shall make available to him copies of all cause papers in the Section 9 application. In that event, that application would be considered as one under Section 17 and dealt with by the learned arbitrator. The parties shall mention the matter before the learned court below when it may pass the necessary order transferring the Section 9 application to the arbitral tribunal.

By consent of learned counsel for the parties, the interim order passed by the learned court below will continue for a period of two months from date subject to extension, variation or vacation by the arbitral tribunal.

We have not gone into the question of jurisdiction of the learned court below to entertain the Section 9 application which point is kept open in any future proceeding to determine "Court" under Section 2(e) of the

said Act for this arbitral proceeding.

The appeal and the connected application (CAN 1 of 2024) are disposed of by this order.

[I.P. Mukerji, J]

[Biswaroop Chowdhury, J]