

06-08-2024
Item no.7 AD
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

FMAT No.277 of 2024
Amazon Transportation Services Private Limited
-vs-
G.R.B. Logistics
with
CAN No.1 of 2024

Mr. Jayanata Kumar Mitra, sr. adv.
Mr. Anujit Mookherjee, adv.
Mr. Aniruddha Dutta, adv.
Mr. Prithish Chandra, adv. ...for the appellant

Mr. Chiranjib Sinha, adv. ...for the respondent

We formally admit the appeal. As the point involved is very short, we are in a position to dispose of this appeal and the connected application, dispensing with all formalities.

The impugned order dated 12th July 2024 passed by the learned court below in an application under section 9 of the Arbitration and Conciliation Act, 1996 is interim and ex parte. It restrains the appellant-employer from giving any effect to its notice of termination of the service of the respondent.

Two points are raised by Mr Jayanta Kumar Mitra, learned senior advocate appearing for the appellant.

The first is with regard to the jurisdiction of the court. It is this. There is a forum selection clause in the agreement between the parties where the chosen court is one in Delhi. A substantial part of the cause of action, if not the whole, has arisen within the jurisdiction of the Delhi courts. Hence the learned court below had no

jurisdiction to entertain the application under section 9 of the Arbitration and Conciliation Act, 1996.

The second point is that in the suit, the respondent-plaintiff is trying to obtain specific performance of a contract of service. In aid thereof, the impugned ex parte ad interim order was obtained. Such an order could not have been passed.

Prima facie, both the contentions of Mr Mitra are sound and we accept the same. Our observations above are to be taken as prima facie.

We notice from the impugned order that 12th August 2024 is the returnable date of the section 9 application before the learned court below.

We dispose of the appeal by setting aside the interim order dated 12th July 2024 with immediate effect. Let the application be heard out before the learned court below. All points are kept open.

The appeal and the stay application – FMAT No.277 of 2024 with CAN No.1 of 2024 – are accordingly disposed of.

[I.P. Mukerji, J]

[Biswaroop Chowdhury, J]

