

26.11.2024
SI Nos.1-2
Court No.37
(gc)

**In the High Court at Calcutta
Civil Appellate Jurisdiction
(Commercial Division)**

**FMA 802 of 2024
CAN 1 of 2024
With
COT 124 of 2024**

**Smriti Dalmia
Vs.
Sarat Agarwal & Anr.**

Mr. Suddhasatva Banerjee,
Mr. Zeeshan Haque,
Mr. Ajitesh Pandey
...for the Appellant.
Mr. Debnath Ghosh,
Mr. Sushovit Dutt Majumdar,
Mr. Sarosij Dasgupta,
Ms. Ratnadipa Sarkar,
Ms. Mini Agarwal
...for the Respondent No.1.

1. By consent of the parties, the appeal along with the connected application and the cross-objection are taken up together and disposed of by this common order.
2. Mr. Debnath Ghosh, learned Counsel appearing on behalf of the respondent no.1 has fairly submitted that the respondents are willing to refer the disputes to arbitration.
3. Mr. Suddhasatva Banerjee, learned Counsel appearing on behalf the appellant has orally conveyed the willingness of the appellant to refer the disputes to arbitration.

4. The learned Counsel for the parties have also agreed to refer the disputes to Mr. Suman Kr. Dutt, learned Advocate, a member of the Bar Library Club.
5. In view thereof, we appoint Mr. Suman Kr. Dutt, learned Advocate to arbitrate the disputes between the parties.
6. Mr. Dutt shall fix his remuneration in consultation with the parties. It is needless to mention that all costs, charges and expenses in connection with arbitration proceeding shall be borne by the parties in equal measure. The learned Arbitrator shall be entitled to appoint a personal staff and a stenographer, whose expenses are also to be borne by the parties in equal measure.
7. The learned Arbitrator shall make a declaration in terms of Section 12(5) read with VII Schedule of the Arbitration and Conciliation Act, 1996 before commencement of the arbitration proceeding.
8. Accordingly, the appeal along with the connected application and the cross-objection are disposed of.
9. Since we are not deciding on the issues raised before us at the time of disposal of the application, all points are left open to be

decided by the learned Arbitrator in accordance with law.

10. By consent of the parties, the application for appointment of Arbitrator under Section 11 of the 1996 Act being A.P. (COMM) No.952 of 2024 is treated as on the day's list and disposed of on the basis of the aforesaid order.
11. The department is directed to take note of the aforesaid direction and make an appropriate endorsement with regard to the disposal of A.P. (COMM) No.952 of 2024 as on date and the said application shall not be shown as pending.
12. This order shall be immediately communicated to the Registrar (IT) for information and doing the needful.
13. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)