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13.11.2024
Court No. 14
AGM

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 26012 of 2024

MBG Commodities Private Limited
vs.
MSTC Limited & Anr.

Mr. Mainak Bose.
Mr. Shakeel Md. Akhter.
... For the Petitioner.

Mr. Abhrajit Mitra. Sr. Adv.
Mr. Barnik Ghosh.
... For the respondent no. 1.

Mr. T. Raja. VC
Mr. Pawan Gupta.
... For the respondent no.2.

1. The petitioner prays for release of the security deposit which was submitted in terms of the agreement entered into between the petitioner and the respondent no.1.
2. Learned counsel representing the petitioner refers to a communication dated April 9, 2024 addressed to the Engineer/Mech/Coal of the respondent no. 2 with request to release the Performance Bank Guarantee.
3. According to the petitioner, the amount is an admitted claim and the same is liable to be released.

4. Learned counsel representing the respondent no. 1 refers to the arbitration clause in the agreement wherein it has been mentioned that in the event of any dispute or difference between the parties relating to the interpretation, construction, fulfillment or otherwise of the agreement or any provision thereof, such dispute or difference shall be settled by the process of arbitration by a sole arbitrator to be appointed by the Chairman-cum-Managing Director of the respondent no. 1. It has been submitted that the writ petition is not maintainable in view of the alternative remedy available to the petitioner.
5. Learned counsel representing the respondent no. 2 submits that there is no privity of contract between the petitioner and the respondent no. 2. The petitioner cannot seek any relief against the respondent no. 2 in the instant writ petition.
6. Upon hearing the submission made on behalf of both the parties and on perusal of the documents placed before this Court it appears that though the learned counsel for the petitioner stress on the fact that there is hardly any dispute or difference between the parties and the petitioner only seeks implementation of the direction issued by the respondent no. 1 in favour of the respondent no. 2, but I am of the opinion that the claim of the petitioner does not appear to be an admitted one. The same is disputed by the respondents.

7. The arbitration clause clearly mentions that in the event of any difference or dispute between the parties, the same shall be settled by the process of arbitration. The agreement in question was entered into between the petitioner and the respondent no. 1. There is no agreement in between the petitioner and the respondent no. 2.
8. The act of not releasing the security deposit is a difference which has cropped up in between the parties to the agreement. The agreement contains a provision for settlement of such difference by way of arbitration.
9. In view of the above, the Court is not inclined to exercise jurisdiction in the matter.
10. It will be open for the petitioner to avail the relief of arbitration as mentioned in the subject agreement.
11. The writ petition stands **disposed of**.
17. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)