

OD-11

ORDER SHEET

AP/6/2024

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

RAMDEV YADAV
VS
SREI EQUIPMENT FINANCE LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 16th January, 2024.

Appearance:
Mr. Asif Hussain, Adv.
Ms. Labani Pan, Adv.
...for the petitioner

The Court: The affidavit of service shows that the respondent was served by hand on 11th January, 2024.

The respondent, however, is not represented.

The petitioner seeks appointment of an Arbitrator.

The undisputed facts which would appear from the material disclosed to the Court is that an arbitration was initiated between the parties in terms of an arbitration clause contained in a Master Lease Agreement dated 15th May, 2018 between the respondent as the "Lessor" and the petitioner as the "Lessee". There was not much progress made in the arbitration thereafter and the learned Arbitrator resigned on 2nd June, 2023. The relevant letter is on record.

Learned counsel appearing for the petitioner submits that the learned Arbitrator, however, had passed an *ex parte* interim order against the petitioner on 4th March, 2020 by which the petitioner's assets were taken possession of by the Joint Receivers. The petitioner approached the learned City Civil Court for interim measures of protection under Section 9 of the 1996 Act on 19th July, 2023. The petitioner failed to get any relief and hence filed an appeal before a Division Bench of this Court thereafter. The Division Bench by an order dated 7th December, 2023 directed the parties to take steps to appoint an Arbitrator in terms of the arbitration clause as early as possible and preferably within 31st December, 2023. The Arbitrator was also directed to conclude the proceedings within three months from the date of the appointment.

Counsel claims that the petitioner wrote one letter to the respondent pursuant to the order of the Division Bench on 14th December, 2023 and the petitioner had also earlier written to the respondent on 30th November, 2023 but the respondent remained unresponsive to any of these letters.

The admitted fact is that the arbitration has remained stalled from June, 2023 and the parties are already in default of the direction passed by the Division Bench for appointment of an Arbitrator by 31st December, 2023.

The dispute between the parties would be evident from the fact that the petitioner has suffered an interim order in the erstwhile proceedings and continues to suffer the effect of the same since the respondent admitted before the Division Bench that the respondent has sold the asset to a third party in the meantime.

The dispute is also relatable to the arbitration agreement.

The notice under Section 21 is already in existence since the parties were parties to an arbitration from 2019 onwards.

AP/6/2024 is, accordingly, allowed and disposed of by appointing Ms. Ujjaini Chatterjee, counsel, to act as the Arbitrator subject to the learned Arbitrator communicating her consent in the prescribed format to the Registrar, Original Side of this Court within three weeks from date.

The petitioner's advocate-on-record shall communicate this order on the learned Arbitrator by 19th January, 2024 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)

bp.