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ORDER SHEET
AP/16/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

SIDDHANAND ENTERPRISES PRIVATE LIMITED
VS
PHARMACIA PHARMA

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 5th July, 2024.

Appearance:

Mr. Shuvasish Sengupta, Adv.

Mr. Manish Shukla, Adv.

Mr. Abhrajit Roy Chowdhury, Adv.

Ms. Jui Banerjee, Adv.

. . .for the petitioner.

The Court: Despite service, none appears for the respondent. Affidavit of service filed today be kept on record. The present application under Section 11 of the Arbitration and Conciliation Act, 1996 arises out of a licence agreement dated November 30, 2020 entered into between the parties. The dispute arises out of the same with regard to alleged non-payment of the licence fees by the respondent, which resulted in a quit notice being issued by the petitioner.

Clause 6.27 of the agreement embodies an arbitration clause which contemplates all disputes or differences between the parties relating to the agreement or its enterprises to be referred to an arbitration of a sole Arbitrator.

Although Clause 6.27 also provides that sole Arbitrator is to be appointed by the licensor itself, since the said part is violative of Section 12 of the

Arbitration and Conciliation Act, 1996, the petitioner is justified in approaching this Court under Section 11 after exhausting the provisions of Clause 21 of the 1996 Act by invoking the arbitration clause.

Since there is no consensus ad idem as to the Arbitrator to be appointed and the dispute otherwise comes within the purview of the arbitration clause and is inherently arbitrable, there cannot be any impediment in appointing an Arbitrator.

Accordingly, AP No.16 of 2024 is allowed, thereby appointing Mr. Kushal Chatterjee, Advocate (Mob. No. 9830596414), member of the Bar Association, as the sole Arbitrator to resolve the dispute between the parties, subject to obtaining a disclosure from the learned Arbitrator under Section 12 of the Arbitration and Conciliation Act, 1996. The sole Arbitrator shall fix his own remuneration within the confines of the Arbitration and Conciliation Act, 1996 read with its Schedules.

(SABYASACHI BHATTACHARYYA, J.)

SP/