

OCD-11

ORDER SHEET

AP-COM/86/2024

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

TATA CAPITAL LIMITED
VS
SUPREME ELECTROTECH PRIVATE LIMITED AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 22nd February, 2024.

Appearance:

Mr. Swatatup Banerjee, Adv.

Mr. Avishek Guha, Adv.

Sonal Agarwal, Adv.

..for the petitioner

Mr. Debraj Sahu, Adv.

Mr. Arkodeb Sinha, Adv.

Ms. Simran More, Adv.

...for the respondents

The Court: This is an application for appointment of Arbitrator under Section 11 of The Arbitration and Conciliation Act, 1996. There is a background to the present application.

By an order dated 22nd November, 2023 in an application filed by the petitioner for interim protection, the Court had considered appointment of an Arbitrator to be the appropriate remedy in the facts brought to the notice of the Court. Since the respondents were not willing for such appointment, the Court passed an order of injunction on the freehold properties of the respondents and

directed that the order would remain in place until the parties went to arbitration in terms of the arbitration clause in the loan-cum-hypothecation agreement.

The relationship between the parties are governed under the terms of a loan-cum-hypothecation agreement dated 5th April, 2022 which contains an arbitration clause at Clause 12 of the agreement. The petitioner lent money to the respondents for purchase of vehicles through a Channel Finance dated 31st December, 2018. The petitioner now claims an outstanding amount of Rs.6.19 crores. The petitioner invoked the arbitration agreement in its notice dated 15th December, 2023. The respondents received this notice but failed to reply thereto.

Apart from there being an arbitration agreement, there is also a dispute between the parties which is directly relatable to the arbitration agreement.

The points taken by learned counsel appearing for the respondents namely on the status of the petitioner in relation to the erstwhile lender and the Channel Finance are both answered in the statements made in the petition as well as in the loan-cum-hypothecation agreement.

AP-COM/86/2024 is accordingly allowed and disposed of by appointing Mr. Sudipto Sarkar, Senior Counsel, to act as the Arbitrator subject to the learned Arbitrator communicating his 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 26th February, 2024 along with the requisite details of the contact person of the petitioner.

The interim order dated 22nd November, 2023 will continue until the parties file suitable applications in the arbitration for interim orders or till six weeks from this date, whichever is earlier.

(MOUSHUMI BHATTACHARYA, J.)

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