

OCD-8, 9 10 and 11

ORDER SHEET

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

AP-COM/411/2024

MULTIPLEX EQUIPMENTS AND SERVICES PRIVATE LIMITED
VS
ALPARGATAS INDIA FASHIONS PRIVATE LIMITED

And

AP-COM/412/2024

FORUM MALL MANAGEMENT SERVICES PRIVATE LIMITED
VS
ALPARGATAS INDIA FASHIONS PRIVATE LIMITED

And

AP-COM/413/2024

VIDYUT ELECTRICALS AND ELECTRONICS PVT. LTD.
VS
ALPARGATAS INDIA FASHIONS PRIVATE LIMITED

And

AP-COM/414/2024

FUNTAIL ENTERPRISE
VS
ALPARGATAS INDIA FASHIONS PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 26th February, 2024.

Appearance:

Mr. Jishnu Chowdhury, Adv.
Mr. Aritra Basu, Adv.
Mr. S. K. Singhi, Adv.
Ms. Riti Basu, Adv.
Mr. Sayan Banerjee, Adv.
...for the petitioners

Mr. Prathamesh Kamat, Adv.
Mr. Ratul Das, Adv.
Mr. Dwipraj Basu, Adv.
Mr. Aliff Fazebbhoy, Adv.
...for the respondent

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

Learned counsel appearing for the parties submit that the issues in the present proceedings are covered by a judgment delivered by this Court in four arbitration petitions on 9th January, 2024. The arbitration petitions covered in that judgment and the one before this Court involve the same petitioners and the same disputes. This would be evident from the Minutes dated 11th November, 2020 where the learned Arbitrator recorded that all the arbitrations would be heard together since the issues involved were identical. The mail dated 8th December, 2020 from the Arbitrator lists the arbitration petitions which are now before the Court.

The petitioners pray for appointment of an Arbitrator under Sections 11, 29-A and 15 of the Act in view of the mandate having come to an end on 22nd November, 2022 but the parties continued with the arbitration till 29th August, 2023. Whether the mandate can continue after termination or a new Arbitrator is required to be appointed was answered by this Court in the judgment dated 9th January, 2024. The Court was of the view that the petitioners' recourse lies through Section 15 of the Act for substitution of the learned Arbitrator on the grounds under Section 14 which includes the Arbitrator's *de jure* or *de facto* inability to perform her functions. This was in view of the fact that the learned

Arbitrator could not have proceeded with the arbitration once the mandate came to an end.

In view of the above, this Court is inclined to appoint the same learned Arbitrator who had been appointed in the four connected arbitrations so that the parties can avoid multiplicity and/or inconsistencies of decisions.

Ms. Hasnuhana Chakraborty, learned counsel, is accordingly appointed to act as the Arbitrator in all four arbitration petitions to resolve the disputes and differences between the parties, 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 28th February, 2024 along with the requisite details of the contact person of the petitioner.

AP-COM/411/2024, AP-COM/412/2024, AP-COM/413/2024 and AP-COM/414/2024 are disposed of in terms of the above.

(MOUSHUMI BHATTACHARYA, J.)