

OCD-4

ORDER SHEET

AP-COM/424/2024

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

VISHAL SHYAMALENDU DEY
VS
JOY BANDHU MUKHERJEE

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 1st March, 2024.

Appearance:

Mr. Viren Bansal, Adv.
Ms. Akanksha Mukherjee, Adv.
...for the petitioner

Mr. Rohit Banerjee, Adv.
Mr. Subhrendu Halder, Adv.
Mr. Abhirup Halder, Adv.
...for the respondent

The Court: The petitioner seeks appointment of an Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996 and places documents to show that the petitioner executed a Deed of Partnership on 22nd December, 2021 with the respondent.

The petitioner made payment of Rs.83 lakhs to the respondent in terms of the Deed. The petitioner, however, chose to retire from the partnership on 28th March, 2022 which the petitioner did and thereafter sought refund of the 83 lakhs. The acknowledgement of the amount paid by way of a money receipt issued by the respondent on 27th December, 2021 is part of record.

The petitioner invoked the arbitration clause on 27th December, 2023 contained in the Deed of Partnership. The respondent remained silent to the notice of invocation.

The respondent is represented and learned counsel appearing for the respondent submits that the dispute may be premature in nature.

Considering that the respondent has acknowledged the payment of Rs.83 lakhs and the petitioner is no longer a part of the partnership firm, there is certainly a dispute between the parties which needs to be resolved. The respondent's denial of the petitioner's claims can well be adjudicated in the arbitration.

AP/424/2024 is allowed and disposed of by appointing Ms. Sreemoyee Mitra, 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 4th March, 2024 along with the requisite details of the contact person of the petitioner.

The allegations are deemed not to have been admitted since no affidavits have been called for.

(MOUSHUMI BHATTACHARYA, J.)