

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

AO-COM/11/2024
WITH
AP/691/2023
CHOLAMANDALAM INVESTMENT AND FINANCE COMPANY LIMITED
VS
UMA EARTH MOVERS AND ANR.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 6th December, 2024.

Appearance:

Mr. Swatarup Banerjee, Adv.

Mr. Paritosh Sinha, Adv.

Mr. Shounak Mukhopadhyaya, Adv.

Mr. Rohan Kumar Thakur, Adv.

Mr. Tridibesh Dasgupta, Adv.

...for the appellant

Mr. Dyutimoy Paul, Adv.

...for the respondents

The Court: On 15th May, 2024 a Co-ordinate Bench, while admitting the appeal, *prima facie* was of the view that from the pleadings it does appear that part of the cause of action as pleaded has not arisen within the jurisdiction of this Court.

Considering the fact that there are defaults in the payment of hire charges, Joint Receivers have been appointed to take symbolic possession of the equipment.

The respondents were directed to pay the hire charges aggregating to Rs.26 lakhs in three instalments between 28th June, 2024 and 30th September,

2024, failing which the Joint Receivers have been authorised to take immediate physical possession of the equipment.

Learned counsel for the parties have consented to the appointment of an Arbitrator instead of any requirement to file a separate application for appointment of an Arbitrator in view of the fact that the hire purchase agreement contains an arbitration clause.

In view thereof, we appoint Mr. Raj Ratna Sen, Advocate, a member of the Bar Library Club, as an Arbitrator. The remuneration shall be paid by the parties in equal proportion. The Arbitrator shall be entitled to a staff and Stenographer whose remunerations are to be paid by the parties in equal measure.

The learned Arbitrator shall make a declaration in terms of Section 12 read with Schedule VII of the Arbitration and Conciliation Act, 1996.

The learned Arbitrator shall fix the remuneration in consultation with the parties.

The appeal is, accordingly, disposed of with the aforesaid direction.

The issue of jurisdiction raised in the appeal is left open and not decided in this appeal in view of the subsequent events.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)