

OCD-4

ORDER SHEET

APO/34/2023
WITH
CS/183/2022

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

GAMMON ENGINEERS AND CONTRACTORS PRIVATE LIMITED
VERSUS
SRMB SRIJAN PRIVATE LIMITED AND ORS.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE APURBA SINHA RAY

Date : 13th November, 2024

Appearance:

Mr. Suddhasatva Banerjee, Adv.
Mr. Prantik Garai, Adv.
Mr. Ramanuj Ray Chowdhuri, Adv.
...for the appellant

Mr. Sakya Sen, Adv.
Mr. Arnab Das, Adv.
Ms. Akansha Yadav, Adv.
Ms. Syeda Romana Sultan, Adv.
Mr. Vaibhav Sharma, Adv.
Mr. Santanu Chatterjee, Adv.
...for respondent no. 1

Mr. Aryak Dutt, Adv.
Ms. Nilanjana Adhya, Adv.
Mr. Dipankar Das, Adv.
...for respondent nos. 2 and 3

The Court: We have heard the learned counsel for the parties.

The matter was adjourned on the earlier occasion in order to enable Mr. Aryak Dutt, learned counsel appearing on behalf of the defendant no.1 to obtain necessary instructions with regard to referring the dispute to arbitration. Mr. Dutt has submitted that he has received instruction and the defendant no.1 has no objection in the event an Arbitrator is appointed by this Court.

As we perceive, the dispute is essentially arising out of a purchase orders under which the plaintiff supplied TMT bars to the defendant no.1 from time to time at the instruction of the defendant no.3. It is now being alleged that some of the materials supplied are defective as a result whereof no direction can be passed upon the defendant no.1 to pay for such defective supply.

The purchase order contains an arbitration clause. The arbitration agreement is not in dispute.

Mr. Sakya Sen, learned counsel appearing on behalf of the plaintiff submits that a sum of approximately Rs.1.84 crores is due and payable on account of the goods supplied. The plaintiff is an unpaid vendor.

Mr. Ranjit Kumar Bag, a retired Judge of this Court, is appointed as an Arbitrator to decide the disputes between the parties. 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 is requested to 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 commensurate with his office in consultation with the parties in the first sitting of the arbitration.

It is needless to mention that the parties have consented to referring all the disputes forming the subject matter in the suit to be referred to arbitration and hence it may not be confined to the purchase order alone.

The Order under appeal is thus, set aside.

In view of the aforesaid order, the suit and all applications pending before the learned Single Judge stand disposed of.

(SOUMEN SEN, J.)

(APURBA SINHA RAY, J.)