

IN THE HIGH COURT AT CALCUTTA  
Ordinary Original Civil Jurisdiction  
ORIGINAL SIDE

AP/86/2024  
M/S MAA KALI HARD COKE INDUSTRIES  
VS  
M/S A M ENTERPRISE AND ORS.

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 2<sup>nd</sup> May, 2024.

*Appearance:*

*Mr. Anirban Majumder, Adv.*

*Ms. Piu Karmakar, Adv.*

*...for the petitioner.*

*Mr. Shaunak Mitra, Adv.*

*Mr. Niladri Bhattacharjee, Adv.*

*Mr. Soham Bandyopadhyay, Adv.*

*Ms. Priyanka Kundu, Adv.*

*Mr. Pratik Acharjee, Adv.*

*...for the respondents.*

The Court: This is an application under Section 11 of the Arbitration & Conciliation Act, 1996.

The disputes between the parties arise out of a conversion agreement dated 1 December, 2020 whereby the respondents agreed to make available coking coal free of cost for further use by the petitioner.

Pursuant to the said agreement, it is alleged that the respondents have failed to deliver and supply coking coal in terms of the said agreement.

In such circumstances, the petitioner has allegedly suffered loss and damages of approximately Rs.7.58 crores.

It is submitted on behalf of the respondents that there are no dues payable on account of damages and there has been no breach by the respondents on any account whatsoever.

Clause 9 of the agreement, inter alia, provides as follows :

*“9. ARBITRATION:-*

*In the unlikely event of any dispute under this contract/agreement which can not be resolved by mutual discussion and deliberation, the same will be subject to arbitration under the Indian Law, the venue of the arbitration shall be Kolkata. The party shall appoint one arbitrator each and third arbitrator shall be appointed by these two arbitrators before entering into the reference. The Arbitrators, so appointed, will give their award within a period of 90 (Ninety) days from the date of entering into the reference.”*

I am satisfied that there are live disputes between the parties which are covered by the arbitration clause pertaining to the subject agreement.

In such circumstances, AP/86/2024 stands disposed of by appointing Mr. Sabyasachi Choudhury, Advocate and a member of the Bar Library Club subject to the Arbitrator communicating his consent to the Registrar, Original Side of this Court within three weeks from date.

The Advocate on Record of the petitioner shall communicate this order to the Learned Arbitrator forthwith and positively within 10 days from the date of passing of this order.

With the aforesaid directions, AP/86/2024 stands disposed of.

Since the respondents have not filed any affidavit, the allegations contained in this application are denied.

(RAVI KRISHAN KAPUR, J.)