

ORDER SHEET

AP-COM/596/2024

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

KALYAN JEWELLERS INDIA LTD
VS
KAUSHIK PROPERTIES PVT LTD

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 28th June, 2024.

Appearance:

Mr. Suddhasatva Banerjee, Adv.
Mr. Chunkyh Agarwal, Adv.
Mr. Rohit Bhattacharjee, Adv.
..for the petitioner

The Court: The petitioner sought to serve the respondent in due course. Having so failed, the petitioner effected substituted service in terms of the leave granted by the Court. An affidavit of service to that effect, filed today, be kept with the record.

It transpires that despite repeated efforts and good service, none appears to represent the respondent at the time of call. Hence, a presumption is drawn that the respondent is deliberately avoiding service and the matter is taken up for hearing ex parte.

The petitioner is a lessee in respect of a property of which the rent is to the tune of Rs.2 lakh per month.

There being a dispute regarding the respondent/lessor providing the amenities to the petitioner under the provisions of the lease deed and the amenities agreement between the parties, both of which have similar arbitration clauses covering any dispute arising out of the said agreements, the petitioner invoked the arbitration clauses in both the agreements, since the dispute touches the agreement, by way of a notice under Section 21 of the Arbitration and Conciliation Act, 1996. The said notice is annexed at page 160 of the application and the track reports and relevant receipts regarding service are also annexed to the application.

Hence, being satisfied that requisite prior formalities have been complied with by the petitioner by issuance of a notice duly under Section 21 of the 1996 Act and that the dispute raised by the petitioner falls within the ambit of the arbitration clause and the issue is otherwise arbitrable, since the same is not covered by the Special Rent Control Act prevalent in the State of West Bengal in view of the rent of the premises exceeding the limit prescribed therein, this Court is of the opinion that there cannot be any impediment in appointing an Arbitrator as no consensus could be arrived at between the parties on such score.

Hence, AP-COM/596/2024 is allowed, thereby appointing Mr. Shounak Mukhopadhyay, Mobile No. 8981772268, a learned member of the Bar Library Club, as the sole Arbitrator to resolve the dispute between the parties, subject to a declaration being obtained from the said learned Arbitrator in terms of Section 12 of the Arbitration and Conciliation Act, 1996. The remuneration of the learned Arbitrator shall be decided by the

Arbitrator within the framework of the Arbitration and Conciliation Act, 1996, read with its Schedules.

It is made clear that all questions pertaining to the dispute between the parties is left open to be decided by the Arbitrator.

(SABYASACHI BHATTACHARYYA, J.)

R.Bhar/bp