

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
[Commercial Division]

AP-COM/643/2024

INTRA PROJECT CONSULTANTS
VS
SPML INFRA LIMITED

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 12th August, 2024

Appearance:
Mr. Amartya Basu, Adv.
Mr. Arghya Dey, Adv.
...for petitioner.

Mr. Aritra Deb, Adv.
Mr. Somdutta Bhattacharyya, Adv.
...for respondent.

The Court:- Affidavit of Service filed in Court today be kept with the record.

Upon perusal of the documents annexed to the present application under Section 11 of the Arbitration and Conciliation Act, 1996, I am satisfied that the arbitration clause contained in clause 13 of the letter of award, which is the relevant document between the parties, covers the dispute pertaining to a money claim now raised by the petitioner.

It also appears that the arbitration clause has been invoked by issuance of demand notice dated June 27, 2023 as well as subsequently by a notice under Section 21 of the 1996 Act dated November 30, 2023. Since the dispute is also otherwise arbitrable, there cannot be any impediment in referring the matter to arbitration.

However, learned Counsel for the respondent, although in principle having no objection to reference, submits that the agreement in question is not properly stamped. It is well-settled that this Court, while exercising its limited jurisdiction

under Section 11 of the 1996 Act, shall not enter into such issue and, applying the principle of *kompetenz-kompetenz*, it is the Arbitrator before whom such issue has to be raised.

Accordingly, AP-COM 643 of 2024 is allowed, thereby appointing Mr. Rupak Ghosh, a member of the Bar Library Club, as the sole Arbitrator to resolve the disputes between the parties, subject to a declaration being obtained from the learned Arbitrator under Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall fix his own remuneration in consultation with the parties and within the framework of the 1996 Act, read with its Schedules.

(SABYASACHI BHATTACHARYYA, J.)

SK.