

ORDER SHEET

AP/114/2024

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

KOUSHIK BHATTACHARYA
VS
ABIRA SECURITIES LTD

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 19th August, 2024.

Appearance:

Mr. Abhimanyu Banerjee, Adv.

Mr. Anirban Basak, Adv.

...for the petitioner

The Court: Despite service, none appears for the respondent.

The affidavit of service filed today be kept on record.

Upon hearing learned counsel for the petitioner and perusal of the annexures to the present application, it is evident that the dispute raised by the petitioner relating primarily to a money claim comes within the ambit of Clause 14 of the agreement between the parties as embodied in the letter of appointment dated August 1, 2018. The issues involved are also *prima facie* arbitrable. The petitioner, as it appears from Annexure-P at page 40, issued a notice invoking the arbitration clause on February 3, 2024. Although the same was erroneously captioned as one under Section 11 of the Arbitration and Conciliation Act, 1996, in the body of the same, Section 21 has been quoted and essentially it is an invocation within the contemplation of

Section 21 of the 1996 Act. From Annexure-Q at page 41 it is evident that the respondent did not agree to the appointment of the named Arbitrator.

From the arbitration clause, it appears that as per the same, the company, that is, one of the parties (the respondent) was to appoint an Arbitrator, which is patently contrary to Section 12 of the Arbitration and Conciliation Act, 1996.

Accordingly, since the present application is otherwise maintainable and in the light of the above observations, there cannot be any impediment in appointing an Arbitrator to resolve the disputes between the parties.

Hence, AP/114/2024 is allowed, thereby appointing Mr. Pourush Bandhopadhyaya, a learned Advocate of this Court (Mob. No. 8777593009), as the sole Arbitrator to resolve the disputes between the parties, subject to a declaration being obtained from the said learned Arbitrator under Section 12 of the Arbitration and Conciliation Act, 1996. It is made clear that the learned Arbitrator shall fix his own remuneration in consonance with the provisions of the 1996 Act and Schedule IV thereof.

(SABYASACHI BHATTACHARYYA, J.)