

OCD-18

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

AP-COM/689/2024

RAJENDRA KUMAR AGARWAL
VS
BRAITHWAITE AND CO LTD

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 24th September, 2024

Appearance:
Mr. Ritoban Sarkar, Adv.
Mr. Barnik Ghosh, Adv.
...for the petitioner

Mr. Debani Banerjee, Adv.
Mr. S. S. Biswas, Adv.
...for the respondent

The Court:- Affidavit of service filed in Court today be kept on record.

Learned counsel for the respondent, at the outset, submits that a talk of settlement is going on between the parties and the petitioner met the respondent for such purpose at the latter's office.

Learned counsel for the petitioner, however, submits on instruction that no settlement has been arrived at as yet. In any event, it is suggested that if the parties are seriously agreeable to a settlement, the same may be arrived at even before the Arbitrator, if appointed.

In view of there being no present settlement between the parties, although there is a chance of one, the matter is taken up for decision on merits.

The petitioner did certain works for the respondent under a purchase order. As per the contract between the parties, any dispute between the parties arising out of or in connection with the contract are referable to arbitration. The notice under Section 21 of the Arbitration and Conciliation Act, 1996 issued by the petitioner clearly indicates that the nature of the claim comes within the purview of the arbitration clause and is in a nature of a money claim.

Hence, since the dispute is also otherwise arbitrable, the matter ought to be referred to arbitration, keeping in view of the agreement between the parties on such count.

Accordingly, AP-COM/689/2024 is allowed, thereby appointing Justice Pradipta Roy, a retired Judge of this Court, as the sole arbitrator to resolve the dispute between the parties, subject to a declaration being obtained from the said learned Arbitrator under Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall fix his own remuneration within the framework of the 1996 Act and its Fourth Schedule.

(SABYASACHI BHATTACHARYYA, J.)