

ORDER SHEET

AP/136/2024

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

B. MURARKA CHARITABLE TRUST
VS
LIONS ORTHOPAEDICS HOSPITAL AND RESEARCH CENTRE

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 3rd September, 2024.

Appearance:

*Mr. Avirup Chatterjee, Adv.
Mr. Rishov Das, Adv.
...for the petitioner*

*Mr. Moti Sagar Tiwari, Adv.
Mr. Sailendra Tiwari, Adv.
Mr. Balarko Sen, Adv.
...for the respondent*

The Court: At the outset, an objection is taken by learned counsel for the respondent to the maintainability of the present application in view of Clause 4 of the agreement between the parties specifying that in case of disputes and differences between the parties, it will be referred to arbitration of the Indian Chamber of Commerce, Kolkata. Since a specific institution has been named as the agreed arbitral tribunal, it is submitted that this Court does not have jurisdiction to further refer the dispute under Section 11 of the Arbitration and Conciliation Act, 1996.

There is substance in such contention. Since the parties have agreed to a specific institution, that is, the Indian Chamber of Commerce, Kolkata as the designated arbitral tribunal, there is no scope of appointment of a

different person/institution as arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996.

Accordingly, AP/136/2024 is dismissed with liberty to the parties to refer the disputes to arbitration, by issuance of a fresh notice under Section 21 of the 1996 Act, to the agreed arbitral tribunal as per the agreement between the parties.

It is made clear that all questions of merits are left open for being decided by the said arbitral tribunal.

(SABYASACHI BHATTACHARYYA, J.)

bp/R.Bhar