

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

AP/243/2022
MSTC LIMITED
VS
SESA INTERNATIONAL LIMITED

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 2nd April, 2024.

Appearance:
Mr. Ratnanko Banerji, Sr. Adv.
Mr. Kamal Kumar Chattopadhyay, Adv.
Ms. Sristi Barman Roy, Adv.
...for the petitioner.

Mr. A. Tarafdar, Adv.
Mr. S.K.Kasera, Adv.
...for the respondent.

The Court: This is an application under Section 11 read with Section 14 of the Arbitration & Conciliation Act, 1996.

Clause 18 of the agreement dated 21 November, 2006 provides as follows:

“18.0 Arbitration

18.1 In the event of any dispute of difference between the parties hereto relating to the interpretation, construction, fulfillment or otherwise of this Agreement, such dispute or difference shall be settled by the process of arbitration of a SOLE ARBITRATOR TO BE APPOINTED BY THE Chairman-cum-Managing Director of MSTC. The venue of such arbitration proceedings shall be at the Registered Office of MSTC at Kolkata and the costs of the arbitration shall be borne equally by the parties herein. The provisions of the Arbitration and Conciliation Act, 1996 and the Rules framed there under or any amendment thereto shall apply to such arbitration proceedings. The award of the sole arbitrator shall be binding on both the parties.”

The indisputable facts are that the arbitration proceedings in respect of disputes arising out of the agreement had commenced and continued till 2021. Thereafter, the Sole Arbitrator expired and was substituted. By a letter dated 2 August, 2021, the substituted Arbitrator had also recused himself. Subsequently, by a letter dated 6 October, 2021 the Chairman of the petitioner had appointed a Sole Arbitrator. It is submitted by the petitioner that in view of objections raised by the respondent, the nominee of the Chairman of the petitioner has refused to act as Arbitrator.

In such circumstances, there is a stalemate and hence, this application for appointment of a substitute Arbitrator.

It appears from the records that the arbitration had reached an advance stage and the parties had commenced arguments.

In this background, Mr. Anil Gupta, a member of the Bar Library Club is appointed as Sole Arbitrator to adjudicate the disputes by and between the parties and to complete the proceedings after complying with all necessary formalities. The appointment is subject to the Learned Arbitrator communicating his consent in the prescribed format to the Registrar, Original Side of this Court within three weeks from date. The Advocate on Record of the petitioner shall communicate this order to the Learned Arbitrator forthwith and positively within 10 days from the date of passing of this order.

With the aforesaid directions, AP/243/2022 stands disposed of.

(RAVI KRISHAN KAPUR, J.)