

ORDER SHEET

AP-COM/783/2024

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION
ORIGINAL SIDE

M A TRADING AND FINANCING PVT LTD

VS

MOHIT KOCHAR AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 6th November, 2024.

Appearance:

Ms. Debjani Sengupta, Adv.

Mr. Rajib Mullick, Adv.

Ms. Ayantika Saha, Adv.

.... for the petitioner

The Court: The respondent no. 3 refused service. Hence the same was accepted as good service. However with regard to respondent no. 4, the postal article has returned with the endorsement "Intimation served – door locked". Thus the predecessor Judge found that the said service upon the respondent nos. 3 and 4 was good service. With regard to the service upon the respondent nos. 1 and 2, His Lordship directed substituted service by publication in two daily newspapers. Learned advocate has filed the affidavit of service indicating that paper publication in "The Indian Express" on October 4, 2024 and in the "Dainik Biswamitra" had been made in compliance of the earlier order. Yet none appears on behalf of the respondents.

Under such circumstances, this Court does not have any hesitation to take up the matter in the absence of the respondents. On the earlier

occasion also, the respondent nos. 3 and 4 did not appear which is recorded in the order of His Lordship. The petitioner is a finance company. The respondent no.1 is the borrower and the respondent nos. 2, 3 and 4 are the guarantors. The petitioner contends that the respondent no. 1 is a defaulter and failed to pay back the loan availed of from the petitioner as per the terms and conditions of the contract. The contract contains an arbitration clause. The notice invoking arbitration has also been annexed to the application.

Under such circumstances, the application is disposed of by appointing Mr. PourushBandyopadhyay (M-8777593009) learned Advocate as the sole arbitrator to arbitrate the dispute. The learned Arbitrator shall comply with the provisions of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall be at liberty to fix his remuneration as per the schedule of the Arbitration and Conciliation Act, 1996. All points available to the respondents against the claim, can be raised before the learned Arbitrator in accordance with law.

The petitioner will communicate this order to the respondents.

(SHAMPA SARKAR, J.)

