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IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

AP/463/2022
M/S TOPLINK MOTORCAR PVT LTD.
VS
PREMIER MERCHANTS PVT LTD.

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 7th May, 2024.

Appearance:
Mr. Sarbajit Mukherjee, Adv.
Mr. Sourjya Roy, Adv.
...for the applicant.

Mr. Ankit Agarwala, Adv.
Ms. A. Mukherjee, Adv.
Mr. Altamash Alim, Adv.
...for the respondent.

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

The disputes between the parties arise out of an agreement dated 10 July, 2019. It is alleged on behalf of the petitioner that the entire security deposit lying with the respondent in terms of the aforesaid agreement has not yet been repaid till date.

The relevant portion of clauses (N) and (O) of the agreement dated 10 July, 2019, inter alia, provides as follows :

"N. GENERAL CLAUSES:

- (i) *Any dispute related to this agreement and/or in relation to vacating of the said property will be dealt by Arbitrator(s) to be chosen by mutual consent.*

O. Jurisdiction:

Only the Courts having territorial jurisdiction over the concerned properties in Kolkata and/or the Hon'ble High Court at Kolkata shall have the jurisdiction to entertain try and determine all actions and proceedings between the parties hereto relating to or arising out of or under this Deed or connected therewith."

It is submitted on behalf of the respondent that the merits of the claim raised by the petitioner are disputed and the respondent also has a counter-claim. By letters dated 22 January, 2022 and 25 February 2022, the petitioner had invoked the arbitration clause under Section 21 of the Act. By a reply to the above letters, the respondent refused to agree to the personnel nominated by the petitioner. In this background, this application has been filed for appointment of a suitable person as an Arbitrator.

In my view, there are live arbitral disputes covered under the arbitration clause which require adjudication. Accordingly, Mr. Varun Kothari, a member of the Bar Library Club, is appointed as Arbitrator, subject to the Arbitrator communicating his consent 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 Arbitrator forthwith and positively within 10 days from the date of passing of this order.

With the aforesaid directions, AP/463/2022 stands disposed of.

(RAVI KRISHAN KAPUR, J.)