

OCD-2

AP-COM/1011/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION
ORIGINAL SIDE

REINFORCED EARTH INDIA PRIVATE LIMITED
VS
M/S. SIMPLEX INFRASTRUCTURES LIMITED

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 11th December, 2024.

Appearance:

Mr. Puspall Chakraborty, Adv.

Ms. Prishanka Ganguly, Adv.

. . .for the petitioner.

Mr. Rohit Banerjee, Adv.

Mr. Abhishek Banerjee, Adv.

. . .for the respondents.

The Court: Although the petitioner seeks appointment of a substitute Arbitrator on the recusal of the erstwhile Arbitrator, the application has been described as one under Section 29A of the Arbitration and Conciliation Act. Liberty is granted to correct the description of the application in the cause title and also amend the prayer here and now. The application shall be described as one under Section 11(6) read with Section 15 of the Arbitration and Conciliation Act. The withdrawal of the learned Arbitrator is available from the minutes. It would be an unnecessary exercise and prejudicial to the petitioner to reject this application on a technical ground. Thus, leave is granted to make the necessary correction.

Prayer (a) be deleted and the Section incorporated in prayer (b) be corrected. Admittedly, a reference was made to a learned Arbitrator by order dated April 13, 2022. The proceedings continued for some time. Thereafter, the learned Arbitrator withdrew from the proceedings. Thus, the existence of the dispute and the need for reference of the same is a matter of record. The learned Arbitrator recorded as follows:

“The Tribunal is not inclined to adjudicate whether the consent given in January, 2024 was valid or not, as it appears that the Claimant is not inclined to extend the mandate of the Tribunal. The reference arising out of AP No.76 of 2022 stands closed with the above observation. The minutes of the meeting held on 17th April, 2024 is signed today.”

Under such circumstances, the Court appoints Mr. Kallol Bose, learned Advocate (Mob. No. 9830219624) as the Arbitrator, to arbitrate the dispute. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996 by the learned Arbitrator. The learned Arbitrator shall fix his own remuneration as per the provisions of the Arbitration and Conciliation Act. The proceedings will start from the stage it was last held. Unnecessary adjournment shall not be prayed before the learned Arbitrator by any of the parties.

AP-COM/1011/2024 is, accordingly, disposed of.

As no affidavit has been called for, allegations against the respondent are deemed to be denied.

(SHAMPA SARKAR, J.)

Sp/