

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

AP-COM/900/2024
MAHAKALI UDYOG PRIVATE LIMITED
-VS
KSA RESOURCES LLP

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: November 11, 2024.

Mr. M. Agarwal, Adv.; Ms. S. Ganguli, Adv.; Mr. S. Roy, Adv. appear.
Mr. J. Kar, Sr. Adv.; Ms. N. Banerjee, Adv.; Mr. S. Sharma, Adv.; Mr. M.D. Taslim, Adv.;
Mr. R. Dutt, Adv. appear.

The Court: The petitioner is the claimant. He has filed this application under sections 14 and 15 of the Arbitration and Conciliation Act, 1996, for appointment of a substitute arbitrator.

The petitioner submits that the arbitration proceeded to a certain extent, but the learned Arbitrator was forced to recuse in view of the stand taken by the respondent. The respondent expressed lack of confidence on the learned Arbitrator.

The petitioner has pointed out a letter written by the learned Advocate-on-Record for the respondent which, according to the petitioner, was disrespectful to the learned Arbitrator. The petitioner apprehends that the same conduct will be repeated by the respondent's learned Advocate.

Mr. Kar, learned Senior Advocate for the respondent, submits that the letter written by the Advocate-on-Record for the respondent was in answer to the contents of the letter written by the petitioner's Advocate.

It appears that there were allegations and counter allegations with regard to the conduct of the parties before the learned Arbitrator. The situation was very unfortunate.

However, the fact that there is a dispute and an existing arbitration clause and a learned Arbitrator had been appointed to arbitrate the dispute, necessitates this Court to appoint a substitute Arbitrator, to adjudicate the dispute between the parties.

The allegations and counter allegations which have been made by the parties are not relevant for disposal of this application. This Court expects that decorum must be maintained and parties must cooperate with the learned Arbitrator.

Under such circumstances, this Court appoints Hon'ble Justice Bhaskar Bhattacharyya, former Chief Justice of Gujarat High Court, as the learned Arbitrator, to arbitrate the disputes between the parties. The appointment shall be subject to compliance of section 12 of the 1996 Act. The learned Arbitrator shall fix his own remuneration in terms of the provisions of the 1996 Act and the learned Arbitrator shall continue from the stage in which the erstwhile learned Arbitrator recused from the proceeding. The seat of arbitration shall be Kolkata.

The application accordingly stands disposed of.

Since no affidavits have been called for, the allegations made against the respondent's learned Advocate are deemed to be denied.

(SHAMPA SARKAR, J.)

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