

OCD 11

ORDER SHEET
AP-COM/918/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

SUBIRES CHAKRABARTI
VS
FOODIE FOLKS RESTAURANTS PRIVATE LIMITED

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 18th November, 2024.

Appearance:
Ms. Rishika Goyal, Adv.
...for the petitioner

Mr. Sakya Sen, Adv.
Mr. Niladri Bhattacharjee, Adv.
Mr. Sohan Banerjee, Adv.
...for the respondent

The Court: The petitioner claims to be the owner and landlord of a space in the ground floor of the Premises No.558/2, Hemanta Mukhopadhyay Sarani. The respondent is the licensee. The Leave and Licence Agreement was executed on August 30, 2022. The petitioner terminated the licence agreement on the ground of non-payment licence fee. According to the calculation of the landlord, approximately Rs.16,57,500/- was due and payable. The notice of termination was issued on January 29, 2024. The licence agreement contains an arbitration

clause. The notice invoking arbitration was issued on June 6, 2024. Hence, the petitioner seeks reference of the dispute to arbitration.

Mr. Sen, learned advocate for the respondent submits that the dispute is no longer alive in view of the payments made to the petitioner after the termination. According to Mr. Sen, there are no dues.

The petitioner submits that all the payments were made subsequently and those who were accepted under protest. The outstanding dues are in excess of the payments made. The entire outstanding dues have not been liquidated. There are claims with regard to recovery of possession upon eviction of the respondent, mesne profit etc.

Under such circumstances, although Mr. Sen submits that the upto date payments have been made, the petitioner denies such contentions. There are other disputes and claims.

Under such circumstances, this Court is not required to go into the calculation and the dispute as to whether the tenancy would be guided by the Transfer of Property Act or the Leave and Licence Agreement would prevail and the disputes will be decided by the learned Arbitrator, in accordance with the clause.

In view thereof, the Court appoints Mr. Aniruddha Chatterjee, learned Advocate, Bar Association Room No.2 as the Arbitrator, to arbitrate the dispute. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

The learned Arbitrator shall fix his own remuneration as per the provisions of the Arbitration and Conciliation Act.

All points including point of tenancy by holding over, arbitrability of the disputes etc. urged before the learned Arbitrator.

AP-COM/918/2024 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)