

OCD-4

ORDER SHEET

AP/602/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

M/S PANCHDEEP CONSTRUCTION LIMITED
VS
MY PREFERRED TRANSFORMATION AND HOSPITALITY PRIVATE LIMITED

BEFORE:
The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA
Date : January 16, 2024.

Appearance:
Mr. Anirban Kar, Adv.
Mr. Munshi Ashiq Elahi, Adv.
Md. Sahidullah Mridha, Adv.
...for the petitioner

Mr. Meghnad Dutta, Adv.
Mr. S. Rudra, Adv.
...for the respondent

The Court: This matter has been going on since August, 2023 with the petitioner urging that this Court also has jurisdiction to entertain the application made under Section 11 of the 1996 Act on the strength of the cause of action having arisen in Kolkata. The arbitration clause at Clause 10.2 gives Kolkata the exclusive jurisdiction in all matters arising out of the Agreement. Clause 10.1 – Arbitration – however designates the seat of arbitration to be in New Delhi.

Learned counsel appearing for the petitioner urges that the Calcutta High Court would also have jurisdiction to entertain an application under Section 11

and further requests the Court to keep the matter pending until after the Delhi High Court considers the petition filed by the respondent therein also under Section 11 of the 1996 Act.

Learned counsel appearing for the parties have placed orders of the learned Single Judge of the Delhi High Court from 17th August, 2023 onwards. There are at least four orders placed before the Court with the last being on 19th December, 2023. The matter has been made returnable on 29th January, 2024. The orders show that the petitioner herein (respondent before the Delhi High Court) has also filed its reply in the proceedings.

This matter has gone on for a considerable period of time despite parallel proceedings filed by the respondent before the Delhi High Court prior to the present application. The Court sees no reason to keep this matter pending and keep on adjourning the same until the Delhi High Court comes to a decision in the pending application. The petitioner, if successful before the Delhi High Court, will have the opportunity to approach this Court.

AP/602/2023 is accordingly dismissed for the above reasons.

It is made clear that the Court has not gone into the merits of the present application.

(MOUSHUMI BHATTACHARYA, J.)