

OD-5

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

AP/614/2023

M/S REPUTE CONSTRUCTIONS PRIVATE LIMITED
VS
ORIENTAL MANUFACTURERS PVT LTD. AND ANR

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 2nd July, 2024

Appearance:
Mr. Saswat Nayak, Adv.
Mr. Pankaj Ladia, Adv.
...for petitioner.

The Court:- Affidavit of Service filed in Court today be kept with the records.

Despite service of notice and previous appearance, none appears today for the respondent. It transpires from the records that initially an objection was raised as regards the agreement containing the arbitration clause not being duly stamped, which has since been rectified by the petitioner, which is evident from the supplementary affidavit where the petitioner has disclosed that the document has duly been impounded.

Initially, a notice under Section 21 of the Arbitration and Conciliation Act, 1996 was issued by the petitioner and an application was taken out under Section 11 of the said Act before the Bombay High Court. However, on the sole objection as to jurisdiction being taken by the respondent, the concerned learned Single Judge of the Bombay High Court held that the said Court does not have jurisdiction.

Accordingly, the present application has been filed under section 11 before this Court. Preceding the filing of the present application, a fresh notice under Section 21 invoking the arbitration clause was also issued by the petitioner.

It transpires from a perusal of the materials on record that the claim is *ex facie* not time barred and the matter is arbitrable in principle. The dispute sought to be raised by the petitioner also comes within the purview of Clause 10 of the agreement between the parties which is the arbitration clause.

Since initially a contract was entered into by the petitioner with respondent no. 1, which, upon novation, became respondent no. 2 and a fresh work order was issued containing a similar arbitration clause, there is no impediment otherwise for an arbitrator to be appointed pursuant to the present application.

In such view of the matter, AP 614 of 2023 is allowed, thereby appointing Mr. Chayan Gupta, a member of the Bar library Club (Mobile No: 9051511986), as the sole Arbitrator to resolve the dispute between the parties subject to obtaining a disclosure from the learned Arbitrator under Section 12 of the 1996 Act. The remuneration of the Arbitrator shall be fixed by the Arbitrator himself in consonance with the provisions of the 1996 Act and its schedules. All issues pertaining to the dispute are kept open to be decided on merits by the learned Arbitrator.

(SABYASACHI BHATTACHARYYA, J.)