

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

APO/162/2023
WITH
AP/809/2022
IA NO: GA-COM/2/2024

DR SYED SABAHAT AZIM AND ORS.
VS
UPHEALTH HOLDINGS INC. AND ANR.

BEFORE:
The Hon'ble JUSTICE SOUMEN SEN
AND
The Hon'ble JUSTICE BISWAROOP CHOWDHURY
Date : 6th December, 2024.

Appearance:

Mr. Krishnaraj Thaker, Sr. Adv.
Mr. Debashis Karmakar, Adv.
Mr. Dhruv Chadha, Adv.
Mr. Satyam Ojha, Adv.
Mr. Parikshit Lakhotia, Adv.
...for the appellants

Mr. Suddhasatva Banerjee, Adv.
Mr. Chayan Gupta, Adv.
Mr. Anand S. Pathak, Adv.
Mr. Vijay Purohit, Adv.
Mr. Shivam Pandey, Adv.
Mr. Anujit Mookherji, Adv.
Mr. Aniruddha Dutta, Adv.
Mr. N. Dhawan, Adv.
Mr. P. Chandra, Adv.
Mr. S. Bajaj, Adv.
...for the respondents

The Court: In view of the fact that arbitration proceeding had commenced after the impugned order was passed and has culminated in an award on 15th March, 2024 and a proceeding under Section 48 of the Arbitration and Conciliation Act, 1996 is presently pending, we dispose of this appeal with the

observation that the decision of the learned Single Judge with regard to the arbitrability of the dispute in view of the proceeding pending before the National Company Law Tribunal having nature of the dispute as discussed in paragraph 13 and 14 of the impugned order would not operate as a *res judicata* since the said observation was made only for the purpose of deciding the application for interim relief.

The application is also disposed of.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)