

OCD-13

AP-COM/994/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION
ORIGINAL SIDE

ADITYA BIRLA FINANCE LIMITED
VS
M/S SAHIL ENGINEERING WORKS AND ORS

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 17th December, 2024.

Appearance:

Ms. Tutul Das Singh, Adv.

Mr. Amar Singh, Adv.

Ms. Pooja Sett, Adv.

Mr. Ratul Deb Banerjee, Adv.

Ms. Anuska Roy, Adv.

. . .for the petitioner.

Mr. Sukanta Ghosh, Adv.

Mr. Arghya Chatterjee, Adv.

. . .for the respondent nos.2 and 3.

The Court: Vakalatnama filed by all the respondents is taken on record.

This is an application under Section 9 of the Arbitration and Conciliation Act, 1996.

This application has been filed seeking appointment of a Receiver in respect of all that piece and parcel of the land situated in Mouza Alipur, JI No – 61, Touzi No – 11, Khatian No. – 3942, Dag No. – 144, Police Station Deganga, District – North 24 Parganas, West Bengal under Chourasi Gram Panchayat and for further orders permitting the Receiver to deal with the property by way of a

public auction so that the proceeds could be handed over to the petitioner towards partial satisfaction of the loan amount which has fallen due and payable by the respondents.

Both the parties submit that there is an arbitration clause and although the place of arbitration has been selected to be Delhi, the lender has discretion to suggest any other place. The parties agree that the Court at Delhi or such other Courts as per the lender's choice shall have exclusive jurisdiction to exercise the powers under the Arbitration and Conciliation Act, 1996. It is not in dispute that a loan had been sanctioned in favour of the respondents and the respondents defaulted in payment of the monthly installments. Accordingly, the demand-cum-loan recall notice was issued. In the said notice the lender clearly expressed its choice of Courts at Kolkata to have the jurisdiction in respect of the matters arising out of the agreement.

Learned advocate for the respondents disputes the allegations of default and submits that considerable amount of money had been paid to the finance company and the calculation arrived at by the finance company is in correct.

Under such circumstances, as the Court finds that the respondents owe a considerable amount of money to the petitioner, there shall be an injunction upon the respondents from alienating, encumbering and/or creating any third party interest in respect of all that piece and parcel of the land lying and situated at Mouza Alipur, JI No – 61, Touzi No – 11, Khatian No. – 3942, Dag No. – 144, Police Station Deganga, District – North 24 Parganas, West Bengal under Chourasi Gram Panchayat for a period of four months. In the meantime, the

petitioner shall take steps in accordance with the Arbitration and Conciliation Act, 1996.

The application is disposed of.

(SHAMPA SARKAR, J.)

Sp/