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IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

AP/818/2023

SRI KRISHNENDU MONDAL
VS
SWAPAN DEY

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 19th April, 2024.

Appearance:
Mr. Rudraman Bhattacharyya, Adv.
Ms. Tamoghna Saha, Adv.
Mr. Akash Munshi, Adv.

The Court: It is fairly submitted by the petitioner that the instant application is misconceived and there is no valid nor subsisting arbitration clause by and between the parties.

The respondent is represented and submits that there has been gross fraud perpetrated by the petitioner and that on the basis of an invalid and inoperative arbitration clause, proceedings have also been filed under Section 9 of the Arbitration and Conciliation Act, 1996 before the District Judge at Alipore.

For convenience, clause 17 of the agreement is set out hereinbelow;

“17. That in event of any problem that the both party can appoint any Arbitrator with the consent of other party.”

A perusal of the said clause would ex facie demonstrate that the same is unintelligible and meaningless. There is lack of mutuality and no consensus *ad idem*. In fact, there is no valid arbitration clause between the parties. In such circumstances, as prayed for by the petitioner, AP/818/2023 stands dismissed on the ground of maintainability.

Needless to mention, the incidental proceedings under Section 9 of the Arbitration and Conciliation Act, 1996 are also misconceived and not maintainable.

Both parties are at liberty to take appropriate steps, before the learned District Judge at Alipore in Misc. Case no. 15/2023, in accordance with law.

(RAVI KRISHAN KAPUR, J.)

SK.