

OD-6

ORDER SHEET

AP/846/2023

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

SAIBAL KUMAR GUIN
VS
TRENDY BAZZAR

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : January 17, 2024.

Appearance:

Mr. Sankha Subhra Ray, Adv.

Mr. Ahitagni Dey, Adv.

Ms. Ankita Dey, Adv.

Mr. Sanjeev Das, Adv.

Mr. Lord Chatterjee, Adv.

Ms. Nandini Sharma, Adv.

The Court: The present application is as misconceived as can be when a party simply approaches the Court and files an application without looking up the law on the subject.

The petitioner's case, in short, is for appointment of a substitute arbitrator but under Sections 11 and 14 of the 1996 Act. The petitioner should be aware that appointment of a substitute arbitrator can only be done under Section 15 of the Act and that too on satisfaction of the grounds in Sections 14 and 15.

The respondent is also blissfully unaware of the law. Learned counsel appearing for the respondent argues that the respondent has unilaterally

appointed an Arbitrator who has commenced the reference but that the petitioner has played truant in the arbitration and failed to file its statement of defence.

The Court is unable to comprehend the basis of the respondent's appointment of the arbitrator by a solitary notice to the petitioner dated 30th September, 2021. The respondent proceeded to unilaterally appoint an Arbitrator. That Arbitrator, strangely enough, also commenced the arbitration and passed procedural directions.

Apart from the law on unilateral appointments, the rigours of Sections 11(5) and (6) will have to be exhausted by a party for appointment of an arbitrator. In case of appointment of a substitute arbitrator, the grounds under Section 15 read with Sections 13 and 14 must be there before the Court.

Needless to say, the respondent's appointment of Arbitrator is completely *de hors* the statutory provisions.

The petitioner, hence, does not have a case for relief.

AP/846/2023 is dismissed for the above reasons.

(MOUSHUMI BHATTACHARYA, J.)