

OCD 15

ORDER SHEET
AP-COM/279/2024
[Old Case No.AP/766/2022]
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

PRABODH KUMAR ROY
VS
EASTERN RAILWAY

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 21st November, 2024.

Appearance:
Mr. Sujit Banerjee, Adv.
Mr. Nilay Sengupta, Adv.
...for the petitioner

Mr. Uttam Basak, Adv.
...for the respondent

The Court: Liberty is granted to the petitioner to describe the application properly. Learned advocate for the railways raises various technical objections with regard to the format of the notice invoking arbitration and the manner in which the application has been drafted etc. My predecessor Judge had already granted leave to the petitioner to correct the description of the application. The description of the application is not a part of the sworn statements contained in the application and the same can be corrected with the leave of the Court.

The contention of the learned advocate for the respondent with regard to the contents of the notice invoking arbitration is not accepted at this stage. The

respondent agreed to arbitration and they have chosen their own Arbitrator. The unilateral choice of the Arbitrator was not objected to at the relevant stage. It appears that the said Arbitrator chosen by the respondent did not commence the proceeding apart from issuing a notice dated 28th February, 2022, to the parties. As the dispute is alive, but the arbitration proceedings have not commenced, the petitioner has filed this application for appointment of an another Arbitrator.

Under such circumstances, the Court does not see any reason as to why the prayer cannot be allowed at this stage.

Accordingly, the Court appoints Mr. Rishad Medora, learned Advocate, Bar Library Club, as the Arbitrator, to arbitrate the dispute. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

The learned Arbitrator shall fix his own remuneration as per the Schedule of the Act.

AP-COM/279/2024 (Old Case No.AP/766/2022) is, accordingly, disposed of.

(SHAMPA SARKAR, J.)