

OD-9

ORDER SHEET

AP/871/2023

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

M/S. ELECTRONICA FINANCE LIMITED
Versus
M/S. SAMANTA ENTERPRISE AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 22nd January, 2024

Appearance:

Mr. Mohit Gupta, Adv.
Ms. Amrin Khatoon, Adv.
..for the petitioner

Ms. Rita Mukherjee, Adv.
Mr. Pujan Chatterjee, Adv.
Mr. Sumit Biswas, Adv.
Mr. Saprativa Pal, Adv.
...for the respondents

The Court: Learned counsel appearing for the petitioner seeks appointment of an Arbitrator and places a letter dated 10th December, 2023 from the petitioner to one Mr. A. Ghosal appointing the latter as the Arbitrator in respect of the dispute between the petitioner and the respondents.

According to counsel appearing for the petitioner, the dispute arises out of a Loan Agreement whereby the petitioner gave a loan of a certain amount of money to the first respondent. The second and the third respondents stood as guarantors for the said loan.

Counsel submits that the respondents gave an undated letter to Mr. Ghosal in response to the petitioner's letter of 10th December, 2023 disputing the appointment on the ground of it being unilateral and contrary to the provisions of the 1996 Act.

The letter dated 10th December, 2023 is not a notice under Section 21 of The Arbitration and Conciliation Act, 1996. Apart from the letter being addressed to the Arbitrator who was unilaterally appointed by the petitioner, the rigours of Section 11(5) and then (6) were evidently not followed by the petitioner.

Hence, the application for appointment of Arbitrator under Section 11(6) of the Act fails in the absence of a Section 21 notice.

Learned counsel appearing for the respondents takes several points on the merits of the dispute. This argument is premature and can only be considered once the Court is satisfied of the existence of a valid arbitration agreement between the parties.

AP/871/2023 is accordingly dismissed.

(MOUSHUMI BHATTACHARYA, J.)