

OCD-12

AP-COM/266/2025
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

DR PAUL'S MULTISPECIALITY CLINIC PRIVATE
LIMITED
VS
STYLEDGE CREATIONS PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 8th April, 2025.

Appearance:
Mr. Swaraj Shaw, Adv.
Mr. Nishant Shukla, Adv.,
Mr. Rabindra Mitra, Adv.
Mr. Tamoghna Saha, Adv.
. . .for the petitioner.

The Court:

1. Affidavit of service is taken on record.
2. Despite service, none appears on behalf of the respondent.
3. The respondent has received the notice invoking arbitration dated February 5, 2025 and the documents annexed to the application indicate such service of notice.
4. The petitioner had entered into a franchise agreement with the respondent. The petitioner was the franchisor and the respondent was the franchisee. According to the petitioner, the franchise agreement had come to an end on 23rd August, 2024. The respondent continued to carry on business after expiry of the franchise agreement. It is further contended that although the franchise agreement provided for renewal,

the respondent did not pray for such renewal. It is also submitted that considerable amount as royalty is due and payable although, intermittent payments were made. The royalty amount payable under the said agreement was far more than what was actually disbursed. These are the disputes which have cropped up between the parties.

5. The petitioner requested payment and ventilated its grievances by several letters. The petitioner alleged breach committed by the franchisee/respondent. The respondent did not reply to the demand notice and accordingly, a notice under Section 21 of the Arbitration and Conciliation, 1996 was issued by invoking the arbitration clause being Clause no. 4 of Article XXVIII, which is quoted below:

“Arbitration: Any and all disputes (“Disputes”) arising out of or in relation to or in connection with this Agreement between the Parties or relating to the performance or non-performance of the rights and obligations set forth herein or the breach, termination, invalidity or interpretation thereof shall be referred for arbitration in Kolkata, West Bengal, India in accordance with the terms of Indian Arbitration and Conciliation Act, 1996 or any amendments thereof. The language used in the arbitral proceedings shall be English. Arbitration shall be conducted by a sole arbitrator, who shall be appointed with the consent of both Franchisor & franchise only. The sole arbitrator shall be appointed as per the provisions of Arbitration and Conciliation Act, 1996. The arbitral award shall be in writing and shall be

final and binding on each party and shall be enforceable in any court of competent jurisdiction.”

6. The clause provides that in case of disputes with regard to breach, termination, invalidity or interpretation of the franchise agreement, the same shall be referred to arbitration in Kolkata. The language shall be in English and a sole Arbitrator will decide the matter which decision will be binding on the parties. This Court, as the referral court is only concerned with the existence of the arbitration clause and whether a notice invoking arbitration has been issued properly. This Court finds that there is an arbitration clause and the respondent was served with a notice under Section 21 of the Arbitration and Conciliation Act, 1996. The petitioner claims money under various heads and the claim is allegedly in excess of Rs. 40 lakhs.
7. This is a fit case for appointment of a learned sole Arbitrator to arbitrate upon the disputes between the parties. The objections available to the respondent with regard to the admissibility of the claim, arbitrability of the issues, limitation, etc. shall be raised before the learned Arbitrator and the learned arbitrator shall decide such dispute on the basis of the evidence to be adduced by the parties.
8. Under such circumstances, the Court appoints Mr. Sarosij Dasgupta, learned Advocate, as the Arbitrator, to arbitrate upon the dispute between the parties. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

9. The learned Arbitrator shall fix his own remuneration as per the schedule of the Arbitration and Conciliation Act.
10. This Court had not gone into the merits of the claim of the petitioner.
All points are kept open.
11. AP-COM/266/2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)

sp/