

ORDER

OC-21

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/312/2025
SHRI AJIT BANIK
VS
M/S MA KAMAKHYA ENTERPRISES AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 7th May, 2025.

Appearance:

Mr. Sourojit Dasgupta, Adv.
Mr. Avijit Dey, Adv.
Mr. B. Mukherjee, Adv.
...for petitioner.

1. Affidavit of service is taken on record. Despite service, none appears on behalf of the respondents.
2. This is an application for appointment of a learned arbitrator under clause 16 of the partnership deed dated 26th February, 2010 and the supplementary deed dated 1st July, 2010. The petitioner is one of the partners of the partnership firm. The respondent Nos. 2 to 4 are the other partners and the respondent No. 1 is the firm. As the respondent No.1 is an unregistered partnership firm, all the other partners have been impleaded as respondents.
3. Clause 16 records that all dispute which may arise between the partners or their representative with regard to the construction, meaning and effect of the deed or any part thereof or in respect of the accounts, profits or

losses of the business or the rights and liabilities of the partners under the deed or the dissolution or winding up of the business or any other matter relating to the firm, shall be referred to arbitration and the decision of a sole arbitrator shall be binding. If the parties fail to agree to a sole arbitrator, two arbitrators shall be appointed and the umpire shall be selected by the two arbitrators.

4. The petitioner contends that disputes and differences arose between the partners and the petitioner sought for dissolution of the firm and discovery of accounts. The other partners did not provide the petitioner with accounts and the petitioner was kept in the dark. The petitioner issued notice of dissolution and also invoked arbitration. The respondents replied to the notice invoking arbitration by making counter allegations and denying the claim of the petitioner. In paragraph 8 of the reply, the respondents have expressed their unwillingness to agree to the nomination of the sole arbitrator, made by the petitioner in its notice invoking arbitration.
5. The fact that there is a live dispute, is available from the allegations and counter allegations made by the parties in their respective letters. The existence of the arbitration clause and jurisdiction of this Court are also available from the records. The respondents did not object to the appointment of a sole arbitrator, but did not accept the named arbitrator in the notice.

6. Under such circumstances, this application is allowed, by appointing Mr. Utpal Bose, Senior Advocate, Bar Library Club, 1st Floor, High Court at Calcutta, to arbitrate upon the disputes between the parties. This appointment is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall fix his remuneration as per the Schedule of the Arbitration and Conciliation Act, 1996.

(SHAMPA SARKAR, J.)

S. Kumar / R.D. Barua