

OCD-10

AP-COM/354/2025
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

ANINDYA PAL
VS
KASHINATH DAS

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 19th May, 2025.

Appearance:

Mr. Abhratosh Majumdar, Sr. Adv.

Mr. Sayan Sinha, Adv.

Mr. Nilanjan Bhattacharya, Adv.

. . .for the petitioner.

Mr. Arindam Banerjee, Sr. Adv.

Ms. Manashree Ghosh, Adv.

. . .for the respondent.

The Court:

1. This is an application for appointment of an Arbitrator in terms of Clause 14 of the partnership agreement dated 13th January, 2013. The said clause provides for settlement of disputes between the partners or their legal representatives, arising out of the said agreement, by arbitration. The named arbitrator is the Territory Manager of BPCL or his nominee under whose jurisdiction the LPG distributorship is situated.
2. The petitioner contends that disputes and differences arose over the accounts of the partnership firm. The petitioner refers to an order of the Writ Court, passed in WPA No.18160 of 2024.

3. In the writ petition, the petitioner had challenged the action of the bank authorities in freezing the account of the partnership firm viz, M/s. Alolika, Bharat Gas Distributor. The Court was of the view that the private dispute between the petitioner and the respondent could not be decided in the writ proceeding and the bank could not be dragged into the dispute. The Court held that in order to protect the consumers and also to balance equities, the account should be defreezed and all payments made from the said account would be via RTGS. Both the partners, that is, the petitioner and the respondent were directed to be signatories. The Court had observed that, when the account was in the name of the partnership firm, the same could not be made inoperative, at the request of one of the partners. However, the Court observed that the parties could avail of their remedies before a civil court.
4. It is submitted by Mr. Majumder learned Senior Advocate that, the question of filing a civil suit would not arise, in view of the arbitration clause.
5. Mr. Arindam Banerjee, learned senior advocate, submits that the matter may be referred to an independent private tribunal. He disputes the petitioner's claims
6. Although the parties had agreed that the dispute would be referred to the Territory Manager of BPCL or his nominee, in view of the writ proceedings and the order passed therein, and taking into consideration

the nature of the disputes between the parties, the parties request the Court to refer the dispute to a learned retired Judge of this court.

7. Under such circumstances, the Court appoints Hon'ble Justice Samapti Chatterjee, former Judge of this Court, 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.
8. The learned Arbitrator shall fix her own remuneration as per the schedule of the Arbitration and Conciliation Act.
9. Liberty is granted to the petitioner to correct the cause title. Liberty is granted to the respondent's Advocate to file the Vakalatnama in the department, within the course of the week.
10. AP-COM 354 of 2025 is accordingly disposed of.

(SHAMPA SARKAR, J.)

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