

OCD-21

AP-COM/572/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

SREI EQUIPMENT FINANCE LIMITED
VS
BUMI GEO ENGINEERING LTD. AND ANR.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 26th March, 2025.

Appearance:
Mr. Swatarup Banerjee, Adv.
Mr. Sariful Haque, Adv.
Mr. Rajib Mullick, Adv.
Mr. Biswaroop Ghosh, Adv.
. . .for the petitioner.

Mr. Abhishek Banerjee, Adv.
Mr. Sitikantha Mitra, Adv.
. . .for the respondent.

The Court:

1. Affidavit of service filed in Court is taken on record.
2. This is an application for appointment of a learned Arbitrator to arbitrate upon the disputes which have arisen out of the loan agreement dated December 23, 2019. The respondent no.1 was the borrower and the respondent no.2 was the guarantor. The loan amount was advanced by the petitioner. Allegedly, the respondent no.1 failed to adhere to the repayment schedule. The agreement was terminated and a loan recall notice was issued. The arbitration clause was invoked by a notice dated March 20, 2023. An application for injunction was

disposed of on March 23, 2023. Accordingly, the petitioner has approached this Court for appointment of a learned Arbitrator.

3. Mr. Banerjee submits that in view of the existence of the arbitration clause, a sole arbitrator should be appointed by this Court. As the arbitration Clause provides that the sole Arbitrator shall be appointed by the petitioner and such mechanism is contrary to the present position of law in view of Section 12(5) read with Schedule 5th and 7th of the Arbitration and Conciliation Act, 1996, such prayer is made. The forum selection clause also provides that the Courts at Kolkata will have jurisdiction.
4. Accordingly, the application is allowed. All objections available to the respondents, shall be raised before the learned Arbitrator.
5. Under such circumstances, the Court appoints Mrs. Suparna Mukherjee, learned Senior 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.
6. The learned Arbitrator shall fix her own remuneration as per the provisions of the Arbitration and Conciliation Act.
7. AP COM/572/2024 is, accordingly, disposed of.
8. The Court has not gone into the merits and the claims of the petitioner and allegations against the respondent are arbitrable issues which shall be decided by the learned Arbitrator.

(SHAMPA SARKAR, J.)