

OCD 7

ORDER SHEET
AP-COM/527/2025
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

M/S WOW MOMO FOODS PVT. LTD.
VS
AMIT AGARWAL AND ANR.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 29th July, 2025.

Appearance:
Mr. Raunak Satpathy, Adv.
Mr. Koushik Roy, Adv.
...for the petitioner

Mr. Aditya Chakraborty, Adv.
Mr. Nishant Saraf, Adv.
...for the respondent no.1

Mr. Proshit Deb, Adv.
Ms. Ranjana Seal, Adv.
...for the respondent no.2

The Court:

1. This is an application for appointment of a learned Arbitrator in terms of Clause 12 of the Business Conducting Agreement dated June 18, 2024. It is submitted that the petitioner had taken the premises on lease from Mr. Amit Agarwal, the respondent no.1, but the premises concerned cannot be used without a no objection certificate from the proper person. The petitioner is not able to obtain relevant licences and other statutory permissions.

2. In the course of communications and dealings with the respondent no.1, it transpires that the respondent no.2 is the director of the company which owns the premises in question. The respondent no.1 has been in possession of the premises as a lessee. The no objections were to be furnished by the respondent no.2. The permits and licenses under different statutes are required to make the restaurant/food outlet operational.
3. The petitioner submits that demand notices and the notice invoking arbitration were issued to the respondent no.1. The respondent no.1 replied and it is the contention of the respondent no.1 that the respondent no.2 was withholding those no objections, intentionally. The dispute arose when the respondent no.2 did not cooperate. It is submitted that the claims of the petitioner against the respondent no.1 were baseless. Rather, the respondent No. 1 has a counter claim.
4. Learned advocate for the respondent no.2 submits that the agreement does not reflect that the respondent no.2 had any obligation under the same. The respondent no.2 is not a signatory. The understanding between the respondent no.1 and 2 was that the respondent no.1 would not sublet the property.
5. I find that the petitioner has not expressed any intention to proceed against the respondent no.2. Neither any demand notice nor any notice invoking arbitration was issued to the respondent no.2. As such, the reference can be made only for adjudication of the dispute between the petitioner and the respondent no.1. However, the questions raised by the respondent no.1 are left open, and to be urged before the learned

Arbitrator. Necessary prayers may be made before the learned Arbitrator for addition of party which shall be dealt with in accordance with law.

This Court does not express any opinion with regard to this issue.

6. All questions raised by the respondent no.1 with regard to the arbitrability of the issue, admissibility of the claim, the quantum etc. are left open.
7. Under such circumstances, the Court appoints Hon'ble Justice Samapti Chatterjee, former Judge of this Court, as the learned Arbitrator, 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 her own remuneration as per the Schedule of the Act.
8. AP-COM/527/2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)