

ORDER

OCD-14

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/561/2025
SREI EQUIPMENT FINANCE LIMITED
VS
MUTHYALU GOUD

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 29th July 2025.

Appearance:

Mr. Swatarup Banerjee, Advocate
Mr. Sariful Haque, Advocate
Mr. Rajib Mullick, Advocate
Mr. Biswaroop Ghosh, Advocate
...for petitioner.

1. Despite service on two occasions, none appears for the respondent. The affidavit of service is taken on record.
2. This is an application for appointment of an arbitrator in terms of clause 23 of the hypothecation agreement dated June 30, 2019. The petitioner is a company which carries on business of providing financial assistance. The respondent allegedly approached the petitioner for a loan and an Agreement No.178971 dated June 30, 2019 was entered into between the parties. The petitioner contends to have extended financial assistance to the tune of Rs.1,80,00,000/- for three equipments along with accessories.
3. The contention of the petitioner is that the agreement was concluded in the corporate office of the petitioner situated at 6A, Kiran Shankar Roy Road, Kolkata – 700001. The principal along with interest was to be paid in 31 monthly instalments. A revised repayment schedule was issued by

the petitioner on February 21, 2020. As per the revised payment schedule, the respondent was to repay the said amount along with interest by 32 monthly instalments. It is alleged that the respondent paid up to the 5th monthly instalment and part of the 6th instalment. Thereafter, the respondent committed default.

4. The petitioner terminated the agreement by a notice dated April 20, 2022. As per the petitioner, the claim as on March 31, 2022 came to a sum of Rs.2,36,92,318/-. The petitioner appointed an arbitrator. The petitioner withdrew the proceeding on the ground of unilateral appointment, with liberty to take steps in accordance with law. Such prayer was allowed and liberty was granted by the learned Arbitrator. The same has been recorded in the Minutes dated November 03, 2022. Accordingly, the petitioner issued notice invoking arbitration on August 2, 2023. Page 48 of the application clearly indicates that the said notice was delivered to the respondent. The respondent neither responded to the said notice nor did the respondent offer any payment. Under such circumstances, this Court has been approached for appointment of an arbitrator.

5. Clause 23 of the Agreement is quoted below :-

“23. ARBITRATION

Any dispute and/or difference arising out of, concerning or touching upon the Agreement at any time during its subsistence or thereafter, including disputes and/or differences relating to the interpretation of the Agreement or any clause thereof, shall be referred to arbitration of a sole arbitrator to be appointed by the Company. The arbitration shall be in accordance with the provisions of the Arbitration and

Conciliation Act, 1996 read with Arbitration and Conciliation Amendment Act, 2015 (“Act”) and the rules framed thereunder, as amended/replaced from time to time. The arbitration shall be conducted by a sole arbitrator to be appointed by the Company in accordance with the provisions of the Act. The arbitration proceedings shall be conducted in the English language. Seat of the Arbitration Tribunal shall be same as of the Courts/Tribunals/Forums as mentioned in Loan cum Hypothecation Schedule(s). The award of the arbitrator shall be final, conclusive and binding on all the Parties.”

6. The jurisdiction of the courts at Kolkata has been provided for. It is also stated that the agreement was concluded in the office of the respondent at Kolkata.
7. In such circumstances, it is a fit case for adjudication of the disputes by the sole Arbitrator.
8. This Court appoints Mr. Amitesh Banerjee, Senior Advocate, 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 his/her remuneration as per the Schedule of the Arbitration and Conciliation Act, 1996.
9. The application is disposed of.

(SHAMPA SARKAR, J.)