

OCD 8

ORDER SHEET
AP-COM/575/2025
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

M/S WINDIESEL SERVICES PVT. LTD.
VS
M/S SUMMIT ALLIANCE PORT EAST GATEWAY (INDIA) PVT. LTD.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 30th July, 2025.

Appearance:
Mr. Asif Hussain, Adv.
Mrs. Sujata Choudhry, Adv.
...for the petitioner

Mr. Subhabrata Chowdhury, Adv.
...for the respondent

The Court:

1. Affidavit of service is taken on record.
2. This is an application for appointment of a learned Arbitrator in terms of Clauses 22 and 23 of the Terminal Rental Agreement dated January 24, 2024.
3. The petitioner contends that disputes arose when there was unilateral enhancement of the terminal rental charges, reduction of the leased area, obstruction in the conduct of the petitioner's business and adjustment of rents already paid for an area of 100000 square feet although the area actually leased out was 86000 square feet.

4. Learned advocate for the respondent is granted liberty to file his vakalatnama in the department within a week from date.
5. Learned advocate for the respondent contends that the allegations are false and frivolous. The provisions of the agreement cast an obligation on the petitioner to pay increased rent on and from October 31, 2024. Such increase in rent was to be made on a monthly basis. The petitioner failed to pay the increased rent and committed breach of the contract. The respondent is liable to share the rental income with another organization which is the actual owner of the premises. As the petitioner failed and neglected to comply with Clause 2.6 of the Terminal Rental Agreement, the respondent had to pay the money to the owner of the premises from its personal funds. The respondent had asked the petitioner to vacate the premises. Learned Advocate submits that there is no arbitrable dispute. Admittedly, the petitioner has committed breach of the agreement.
6. The petitioner contends that all disputes arising out of the said agreement are referable to arbitration.
7. Considering Clauses 22 and 23 of the agreement and providing a harmonious construction to the same, it appears that the parties agreed that if disputes were not resolved amicably, the case shall be referred to a court of arbitration. Thus, the intention of the parties to refer any dispute arising out of the said agreement to arbitration is available. The respondent's office is within Kolkata. The cause of action arose within Kolkata. Under such circumstances, this is a fit case for reference of the dispute to arbitration.

8. Accordingly, the Court appoints Debasish Roy, learned Senior Advocate, Bar Association Room No. 2, 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 own remuneration as per the Schedule of the Act.
9. All the contentions raised by the respondent with regard to the non-arbitrability of the disputes and inadmissibility of the claim of the petitioner are left open to be decided by the learned Arbitrator.
10. This Court has not expressed any opinion on the merits of the claims and counterclaims of the parties.
11. AP-COM/575/2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)