

OCD-5 & 6

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

AP-COM/832/2024
SUBRATA DAS AND ANR
VS

M/S CHOLAMANDALAM INVESTMENT AND FINANCE COMPANY LIMITED

WITH

AP-COM/833/2024

SUBRATA DAS AND ANR
VS

M/S CHOLAMANDALAM INVESTMENT AND FINANCE COMPANY LIMITED

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 2nd January, 2025.

Appearance:

Mr. Shuvanil Chakraborty, Adv.

Mr. Subrata Saha, Adv.

Mr. Abhik Biswas, Adv.

. . .for the petitioner.

Mr. Shaunak Mukhopadhyay, Adv.

Mrs. Tutul Das Singh, Adv.

Mr. Ranjit Singh, Adv.

Ms. Pooja Sett, Adv.

Mr. Pranit Biswas, Adv.

. . .for the respondents.

The Court: AP-COM 833 of 2024 is an application under Section 36(2) of the Arbitration and Conciliation Act, 1996. The petitioner prays for unconditional stay of the award on the ground that the Arbitrator was unilaterally appointed. It is urged that unilateral appointment vitiates the award and the award-debtor is not required to secure the amount awarded. The

question raised will be decided in the application under Section 34 of the Arbitration and Conciliation Act, 1996. Corruption or fraud has to be proved for an unconditional stay. In the mids of hearing, learned advocate for the petitioner/award-debtor submits that the award debtor seeks to withdraw the application. Accordingly, such prayer is allowed. The AP-COM 833 of 2024 is dismissed as not pressed.

AP-COM 832 of 2024 is an application for setting aside the arbitral award on various grounds. The primary ground raised is unilateral appointment. It is submitted that the Hon'ble Apex Court has already laid down the law that unilateral appointment of an Arbitrator takes away the very concept of party autonomy. Learned advocate for the award-holder submits that the application under Section 34 is not maintainable on various grounds, including the ground of delay. It is submitted that the award-debtor had received a copy of the arbitral award much prior to filing of the same. This is a disputed question of fact which is required to be brought on record.

Affidavit in opposition be filed within four weeks from date. Reply, thereto, if any, be filed within two weeks thereafter. Liberty to mention after expiry of the aforementioned period.

The award-holder also submits that the execution proceeding is pending before this Court.

(SHAMPA SARKAR, J.)

sp/