

OCD-5

AP-COM/945/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

TAPAN SAHA AND ORS.
VS
M/S. SAMRAT CONSTRUCTION AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 20th February, 2025.

Appearance:
Ms. Sananda Ganguli, Adv.
. . .for the petitioner.

Mr. Sharanya Chatterjee, Adv.
. . .for the respondent no2.

Mr. Tanmoy Sett, Adv.
Mr. Atish Ghosh, Adv.
Ms. Antara Dey, Adv.
. . .for the respondent nos.4 & 5.

The Court: The order dated February 13, 2025 records that the respondent No.1, i.e., the partnership firm is represented by the partners. The respondent no.3 neither participated in the arbitration proceeding nor appeared before this Court on any of the earlier occasions. This Court decided to proceed in the absence of the said respondents.

This is an application for recording termination of the mandate of the erstwhile learned Arbitrator and appointment of a substitute Arbitrator. The learned Arbitrator recused himself, as allegations were inflicted upon him. The respondents had opposed the application on the earlier occasion on various

grounds, including the mode and manner in which the petitioner was seeking appointment of a substitute Arbitrator.

This Court was of the view that the description of the application was not correct, but the contents of the application justified the orders which were prayed for. The claimant/petitioner has already corrected the description of the application as directed earlier. Thus, the application is allowed. There is no reason for this court, not to appoint a substitute arbitrator.

Under such circumstances, the Court appoints Mr. Rupak Ghosh, a member of the Bar Library Club and learned Advocate, as the Arbitrator, to arbitrate upon the disputes between the parties. This order 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 provisions of the Arbitration and Conciliation Act.

AP-COM/945/2024 is, accordingly, disposed of.

The proceedings will continue from the stage it was last held before the erstwhile learned Arbitrator. However, the Court notes that the claimant should behave properly in conducting the proceedings before any learned Arbitrator, for that matter.

The parties are at liberty to pray for return of the documents, pleadings, evidence etc. from the erstwhile learned Arbitrator. The merits of the issues involved are not gone into. The learned Arbitrator shall proceed independently.

(SHAMPA SARKAR, J.)

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