

OCD -19

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/1019/2024
SREI EQUIPMENT FINANCE LIMITED
VS
M/S. RELIABLE FOUNDATION LLP

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 13th March, 2025.

Appearance:

Mr. Swatarup Banerjee, Adv.

Mr. SarifulHaque, Adv.

Mr. Saubhik Chowdhury, Adv.

.... for the petitioner

The Court: **1.** On two occasions the respondent has been served. First, with the copy of the application and for the second time, with a copy of the application and the order of the Court.

2. Under such circumstances, this Court decides to proceed with the matter upon holding that communication as contemplated under Section 3 of the Arbitration and Conciliation Act, 1996 has been made at the last known address of the respondent. Despite service, none appears on behalf of the respondent.

3. This is an application for appointment of a learned arbitrator, upon refusal of the erstwhile learned arbitrator to continue with the proceeding. Learned advocate was appointed unilaterally by the petitioner. The respondent raised objection that, the learned arbitrator was de jure unable to perform. In the second minutes dated March 22, 2023 learned arbitrator recorded termination of the mandate and also recused from the proceeding thereby vacating the interim order. By letter dated June 29, 2023, once again, the petitioner invoked the arbitration clause.

4. The dispute arose out of a master lease agreement bearing no. 88208. The total lease value, according to the petitioner, was to be paid by 57 monthly lease rentals, commencing from September 22, 2015 and ending on May 22, 2020. Allegedly, 23 monthly lease rentals were paid and thereafter the respondent stopped paying the rentals. Accordingly, a notice of termination of the agreement was issued as per clause 18(n) which was duly served.

5. As the learned arbitrator recused and also held that the mandate was over, the application has been filed for appointment of a substitute arbitrator, upon expiry of thirty days from receipt of the notice under Section 21 of the 1996 Act.

6. Under such circumstances, this application is allowed. Hon'ble Justice Bhaskar Bhattacharya, former Chief Justice of Gujarat High Court shall act as the learned arbitrator, and arbitrate upon the disputes between the

parties. The proceeding before the learned arbitrator shall continue from the stage it was last held. The learned Arbitrator shall comply with the provisions of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall be at liberty to fix his remuneration as per the Schedule of Arbitration and Conciliation Act, 1996.

(SHAMPA SARKAR, J.)

TR/