

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/1030/2024
TATA CAPITAL LIMITED
VS
DIPANKAR SARKAR

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 3rd March, 2025.

Appearance:

Mr. Jit Ray, Advocate
Mr. Ahanish Ghosh, Advocate
... for the petitioner.

Mr. Tapan Coomer Dey, Advocate
Mr. V. N. Jha, Advocate
Mr. Sourav Ganguly, Advocate
Ms. Shreya Chatterjee, Advocate
... for the respondent.

1. This is an application for appointment of a learned arbitrator. The petitioner is a non-banking finance company. The petitioner advanced loan to the respondent. The respondent has purchased a vehicle with the loan. The sanctioned loan was Rs.60 lakh. An agreement dated July 31, 2022 was executed between the parties. The loan was to be repaid in 48 monthly instalments. Allegedly, the respondent defaulted in repayment of loan. Ultimately, the loan agreement was terminated and the loan was recalled. According to the petitioner, Rs. 38,93,758/- approximately was due and payable on the date of termination of the loan. The agreement contains an arbitration clause for settlement of disputes by a sole

arbitrator to be appointed by certain named institutions. The jurisdiction clause provides that arbitration shall be held in Kolkata.

2. The learned advocate for the respondent submits that the respondent was always willing to square up the matter by repaying the amount due against the loan advanced for the vehicle. The petitioner allegedly clubbed said loan with another personal loan which was contrary to the terms and conditions of the agreement. Accordingly, this Court is of the view that there is a live dispute. Both the parties submit that appointment of an arbitrator by a choice of institutions named by the petitioner is no longer the available mechanism in view of the settled position of law that unilateral appointment of an arbitrator from a curated panel of any party interested in the outcome of the arbitration is not permissible in law. Under such circumstances, both the parties agree that this Court should refer the matter to a sole arbitrator.
3. Under such circumstances, the application is allowed. This Court appoints Shiv Shankar Banerjee, Advocate (Mobile No.9830213870) as the 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.

(SHAMPA SARKAR, J.)