

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/1033/2024

TATA CAPITAL LIMITED
VS.
SURENDRA KUMAR OJHA

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 2nd January, 2025.

Appearance:
Mr. Amritam Mandal, Adv.
Mr. Dwaipayan Banerjee, Adv.
Mr. J. Roy, Adv.
Mr. Abir Das, Adv.
Ms. Mahima Mukherjee, Adv.
Ms. Shipra Naskar, Adv.
. . .for the petitioner.

The Court : This is an application under Section 11 of the Arbitration and Conciliation Act, 1996. The affidavit of service is taken on record. It appears that the respondent has been served at one of the addresses and the postal article to the other addresses has been refused. It also appears that the respondent has been served by an e-mail as also by WhatsApp.

Under such circumstances, the Court is satisfied that the provisions of Section 3 of the Arbitration and Conciliation Act 1996 have been complied with. The service upon the last known address has been refused and the service at the present address has been effected. Moreover, the service by e-mail as also WhatsApp is also on record.

Under such circumstances, the matter proceeds ex parte.

The petitioner is a non-banking financial institution which has extended credit facility of Rs.20,28,153/- to the respondent. The tenure of such facility was 60 months. On the allegation of default in payment of some

of the instalments, the respondent sent a demand notice as also a loan recall notice on 6th October, 2024. In spite of receiving the loan recall notice as alleged by the petitioner, no steps were taken to pay the amount. The claim of the petitioner at present is Rs.21,82,832.74. The petitioner refers to clause 9 of the agreement which talks about settlement of disputes arising out of the credit facility agreement by arbitration, at a place mentioned in serial no.13 of Annexure-1, i.e., Kolkata. The petitioner further refers to the notice invoking arbitration dated November 7, 2024. It appears that the petitioner had asked the respondent to nominate an arbitrator from the panel suggested by them. The respondent did not act upon the same and this court is of the view that the mechanism prescribed is not valid in law.

Under such circumstances, the application is entertained.

Mr. Sourajit Dasgupta, learned Advocate [M: 8697542775] is appointed as the sole arbitrator subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996. The learned arbitrator shall fix his own remuneration as per schedule of the Act.

This Court has not gone into the merits of the matter and the respondent is at liberty to raise all points as may be available.

AP-COM/1033/2024 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)