

OCD-2

AP-COM/1090/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

TATA CAPITAL HOUSING FINANCE LIMITED
VS
SHUBHASHISH TRIPATHI AND ANR.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 4th March, 2025.

Appearance:

Mr. Sayak Ranjan Ganguly, Adv.

Mr. Srijani Ghosh, Adv.

Mr. Indrani Majumdar, Adv.

. . .for the petitioner.

Mr. Souma Subhra Ray, Adv.

Ms. Neelam Kumari, Adv.

Ms. Monalisha Singha, Adv.

. . .for the respondents.

The Court: This is an application for appointment of a learned Arbitrator. The petitioner is a financial institution. It provided financial assistance to the respondents to the tune of Rs.56,00,562/-. The loan agreement was executed on July 14, 2014. Allegedly, the respondents committed series of defaults after paying 52 instalments.

Accordingly, the petitioner issued a notice under Section 13(2) of the Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 and demanded a sum of Rs.50,14,939/- which was allegedly due and payable as on May 18, 2019. The petitioner invoked the arbitration clause by a letter dated September 21, 2024. The arbitration

agreement is provided under Clause 12.10 of the loan agreement. It is submitted that the notice invoking arbitration was delivered to the respondents on September 27, 2024. As the respondents did not take any step upon receipt of the notice invoking arbitration, the petitioner was constrained to file this application. The jurisdiction clause provides that the arbitration shall be in Kolkata.

Learned Advocate for the respondents submits that the respondents are willing to settle the matter, but the petitioner refused. It is further submitted that the calculation of the outstanding dues, is erroneous. Further objections with regard to limitation etc. has also been raised.

The duty of the referral court is to be satisfied as to the existence of the Arbitration Clause and invocation thereof. In the facts and circumstances, this Court is satisfied that there is an arbitration clause and notice invoking arbitration has been issued. The issue of limitation is a mixed question of law and fact. The other objections are also to be raised before the learned Arbitrator.

Under such circumstances, the Court appoints Mr. Nilay Sengupta, learned Advocate [Mobile No. 8240670224] as the Arbitrator, to arbitrate the dispute. 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/1090/2024 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)