

ODC-16

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

AP-COM/1094/2024

VIJAY BOTHRA HUF
VS
JYOTE MOTORS BENGAL PVT LTD

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 16th January, 2025

Appearance:

Mr. Isham Saha, Adv.

Ms. Debjani Sengupta, Adv.

Mr. Rajib Mullick, Adv.

Ms. Ayantika Saha, Adv.

...for petitioner.

Ms. Shuvanil Chakraborty, Adv.

...for respondent.

The Court:- This is an application for appointment of a learned Arbitrator in terms of clause 20 of the service agreement dated May 1, 2018 entered between the petitioner and the respondent. According to the service agreement, the respondent was required to discharge certain obligations. The petitioner also relies on a communication which is annexure C at page 53, indicating that the petitioner was substituted as the service provider in place of Raksha Bothra to Vijay Bothra with effect from July 1, 2022, at the request of the petitioner. The service agreement was terminated on July 20, 2024, on the ground that the main lease agreement had been terminated by the owners of the property. The respondent was asked not to use the equipments belonging to the petitioner as the services of the respondent would no longer be required by the petitioner. The respondent allegedly refused to pay heed to such request and the arbitration clause was invoked by a notice dated August 20, 2024.

Mr. Chakraborty submits that the respondent continues to occupy the leased premises. The owners continued to accept rent and as such the question of not working under the service agreement did not arise. The petitioner cannot terminate the service agreement. In any event, this Court finds existence of an arbitration clause. This Court finds the notice terminating the service agreement. This Court also finds that a notice invoking arbitration has been issued. The points raised by the respective parties are kept open, including the point of arbitrability of the disputes in question.

This Court finds that in terms of the first provision of the clause, a sole arbitrator can be appointed. The parties agree that the dispute may be referred to a sole arbitrator. Under such circumstances, the application is disposed of by appointing Mr. Swatarup Banerjee, Advocate as a sole arbitrator to arbitrate the dispute. 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.)

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