
(2019) 01 CAL CK 0045
In the Calcutta High Court
Case No : Arbitration Petition No. 819 Of 2018

Interlink Pvt Ltd

APPELLANT

Vs

West Bengal Essential Commodities Supply Corporation Ltd

RESPONDENT

Date of Decision : 11-01-2019

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 11(6)

Citation : (2019) 01 CAL CK 0045

Hon'ble Judges : Ashis Kumar Chakraborty, J

Bench : Single Bench

Advocate : K.C. Garg, Sunita Agarwal, Dilawar Khan, Sanjoy Saha

Final Decision : Disposed Off

Judgement

Leave is granted to the petitioner to correct the cause title of the application.

In this application under Section 11(6) of the Arbitration and Conciliation Act, 1996, as amended by Act 3 of 2016(in short, "the Act of 1996") the petitioner has prayed for appointment of a sole Arbitrator to adjudicate the disputes between the parties arising out of the agreement dated December 21, 2004. The arbitration clause contained in the said agreement contemplates that the disputes arising between the parties being settled under the rules of arbitration of the International Chamber of Commerce. Subsequently, however, the parties agreed to and by their conduct modified the said arbitration clause to the effect that disputes between them, if any out of the said agreement be adjudicated by a sole Arbitrator, without reference to International Chamber of Commerce. Accordingly, the disputes which have arisen between the parties with regard to their respective claims and counter claims referred to the arbitration of a former Judge of this Court. However, during the pendency of the arbitral proceeding the said sole Arbitrator died and thereafter, parties have failed to agree to the appointment of a new Arbitrator to proceed with the arbitral proceeding. Thus, the petitioner has filed this application seeking the relief mentioned above. The respondent does not object to the prayer of the petitioner being allowed by this

Court.

Accordingly, Justice Tapan Kumar Dutt, a former Judge of this Court is appointed as the sole Arbitrator to adjudicate the claims and counter claims of the respective parties in the arbitration relating to the said agreement dated December 21, 2004.

It is submitted by the parties that they had already filed their respective pleadings before the erstwhile Arbitrator. Accordingly, the new Arbitrator will proceed with the arbitration on the basis of the existing pleadings of the respective parties. If, the records of the arbitral proceeding conducted by the erstwhile Arbitrator cannot be traced, the parties will reconstruct the records and their respective pleadings already filed before the erstwhile arbitrator.

The learned Arbitrator shall be free to fix his fees and engage the secretarial staff to proceed with the arbitration. The fees of the learned Arbitrator and the remuneration of secretarial staff shall be borne by the parties in equal share.

With the above directions, the application, A.P. No. 819 of 2018 disposed of.