

ORDER

OCD - 21

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/807/2025
M/S COGNITUD SUSTAINABILITY PVT LTD.
VS
M/S VIKRAM SOLAR LTD.

BEFORE
HON'BLE JUSTICE GAURANG KANTH
Date: March 31, 2026.

Appearance:-
Mr. S.E. Huda, Adv.
Ms. Anwesha Guha Ray, Adv.
Ms. Nabeela Akbar, Adv.
...for petitioner.
Mr. Anirudh Goyal, Adv.
Mr. VVV Sastry, Adv.
...for respondent.

The Court:-The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking appointment of a sole Arbitrator to adjudicate the disputes between the parties.

Learned counsel for the petitioner submits that the parties had entered into an agreement dated 1st March, 2025, which contained an arbitration clause (Clause 21) providing that any disputes arising between the parties would be referred to arbitration. It is contended that the existence of the said agreement is not in dispute and, therefore, the disputes between the parties are liable to be referred to arbitration in terms thereof. Learned counsel has drawn the attention of this Court to the said agreement.

It is further submitted that although the parties had mutually cancelled the contract, such cancellation would not amount to termination

of the arbitration agreement, and the issue as to whether the contract stood validly terminated or not constitutes a disputed question of fact, which ought to be referred to arbitration for adjudication by the learned arbitrator.

Per contra, learned counsel for the respondent submits that there is no subsisting agreement between the parties. It is contended that the agreement dated 1st March, 2025 stood expressly declared void and cancelled by the respondent vide email dated 11th March, 2025. The relevant portion of the said email reads as follows:

“Please note, draft shared by you vide appended email is different than what VSL has agreed upon vide email dated 1st February, 2025. For the purpose of clarity, we are enclosing the same again for your ready reference. Thus, at the outset, VSL hereby rejects the said draft Contract shared by you vide email dated 7th February 2025. In view of this, VSL hereby calls upon you and advises Cognitud to execute the Contract which was shared by VSL vide email dated 1st February 2025 (enclosed herewith). Accordingly, erroneous Contract executed as of date stands void/cancelled.”

In response thereto, the petitioner, vide email dated 12th March, 2025, stated as follows:

“As discussed, we accept the cancellation of the current contract. Please share the new contract.”

Upon consideration of the materials placed on record, particularly the correspondence exchanged between the parties, this Court finds that the agreement dated 1st March, 2025 was unequivocally declared void and cancelled by the respondent, and the said position was expressly accepted by the petitioner. The subsequent communication further indicates that the

parties had proceeded to negotiate and contemplate execution of a fresh contract.

In such circumstances, this Court is of the view that the original agreement, including the arbitration clause contained therein, does not survive, the same having been mutually abandoned and treated as void by the parties themselves. Once the foundational contract is acknowledged by both parties to be void and cancelled, there remains no subsisting arbitration agreement capable of being invoked.

Accordingly, in the absence of any existing arbitration agreement between the parties, no case is made out for exercise of jurisdiction under Section 11 of the Arbitration and Conciliation Act, 1996.

The present petition is, therefore, dismissed.

(GAURANG KANTH, J.)