

IN THE HIGH COURT AT CALCUTTA
ORDINARY CIVIL JURISDICTION

AP/676/2022
ANJAN GOSWAMI
VS
AMIT GUHA ROY

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 11th March, 2025.

Appearance:

Mr. Ajay Debnath, Adv.
Mr. Sujit Saha, Adv.
Ms. P. Naskar, Adv.
...for petitioner.

Mr. Shaunak Ghosh, Adv.
Mr. Prasanta Kumar Bagchi, Adv.
Ms. Lata Saha, Adv.

1. By an Order dated March 4, 2025, the Court had already rejected one of the objections taken by Mr. Shaunak Ghosh, learned advocate for the respondent, with regard to the maintainability of the application before this Court, on the ground that the same was premature. According to Mr. Ghosh, the arbitration clause provided for settlement of the dispute amicably. Only upon failure of such amicable settlement, could the arbitration clause be invoked. This contention of Mr. Ghosh has already been rejected by this Court with reasons. This Court found that there were series of letters and communications between the parties with regard to the disputes. The demand of the petitioner had not been addressed. In a nutshell, the dispute which the petitioner raised through several letters went unheeded, although the petitioner's contention is that the

respondent had agreed for settlement of dispute by arbitration. Reference was also made to the decision of ***Visa International Ltd. v. Continental Resources (USA) Ltd.***

2. However, the second contention of Mr. Ghosh is accepted by the Court. This matter should have been filed in the Commercial Division. Accordingly, AP/676/2022, must be registered once again in the Commercial Division and the department is directed to make necessary changes. Learned advocate on record for the petitioner is directed to incorporate the corrections.
3. This Court proceeds to decide the matter on its own merits. The arbitration clause contained in the management contract is not in dispute. The issue with regard to the admissibility of the claims and whether the claims are time barred, are to be decided by the learned arbitrator. Any other objection on merits can be raised before the learned arbitrator.
4. The other contention of Mr. Ghosh that the notice invoking arbitration dated July 18, 2022 is not in proper form, is also not accepted by the Court. This Court is of the view that there does not need to be any particular form in which arbitration has to be invoked, as long as there is an intention to arbitrate. The notice indicates that the petitioner requested the respondent to nominate a person to act as an arbitrator and inform the petitioner about such nomination, within 30 days from receipt of the notice. After expiry of the period of 30 days from receipt of the notice, this application has been filed. Accordingly, the prayer is allowed

by appointing Mr. Satyam Mukherjee (Mob: 8017382322), learned advocate as the learned arbitrator, to arbitrate upon disputes between the parties. All questions raised by Mr. Ghosh shall be raised before the learned arbitrator.

5. This order shall be treated as an order passed in the arbitration petition, once it is registered and renumbered in the commercial division.
6. Let this matter appear on 7th April, 2025 as “To Be Mentioned”.

(SHAMPA SARKAR, J.)

S. Kumar / R.D. Barua