

Services Pvt. Ltd. Vs. Union of India

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Court : Kolkata

Decided On : May-11-2012

Judge : Sanjib Banerjee

Appellant : Services Pvt. Ltd.

Respondent : Union of India

Judgement :

AP No.367 of 2012 IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction RESOURCE ADVERTISING & MARKETING SERVICES PVT.LTD.Versus UNION OF INDIA BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date :

11. h May, 2012.

Appearance: Mr.Pratap Chatterjee, Sr.Adv.Mr.Samrat Sen, Adv.Mr.L.K.

Chatterjee, Sr.Adv.Ms.Aparna Banerjee, Adv.The Court: The matter pertains to a contractual dispute.A previous petition relating to matters covered by the same arbitration agreement had been entertained in this court.

The petitioner claims to have served a notice on the appropriate officer invoking the arbitration clause.

The petitioner was supposed to construct some structures for advertisement purposes.

Such structures were to come up on railway property.

The petitioner claims that the original shape and form of the structure were altered by the railways and, ultimately, the project failed.

The petitioner says that a notice of termination has been issued which the petitioner has accepted but the railways have made a claim on the petitioner though the petitioner would be entitled to receive substantial money on account of the work done prior to the termination of the contract.

It is submitted on behalf of the railways that as to whether the railways are entitled to institute proceedings before any authority under the Bengal Public Demands Recovery Act, 1913 is not a question that should be raised in courts of the present proceedings since such issue can be gone into before the appropriate officer.

There is no merit in allowing misconceived proceedings to be launched or proceeded with since it is evident that the claim of the railways, if any, against the petitioner, arises only out of a contract.

The railways are restrained from taking steps to recover the amount demanded from the petitioner by way of any proceedings under the Bengal Public Demands Recovery Act.

The railways or the appropriate officer should take immediate steps for the constitution of an arbitral tribunal irrespective of whether any notice has been received by any officer, since a copy of the notice has been appended to the petition herein.

It will also be open to the railways to seek appropriate orders in support of the claim but such orders may be sought within the ambit of the arbitration clause.

No useful purpose would be served in keeping the petition pending or calling for any affidavits.

AP No.367 of 2012 is disposed of without any order as to costs.

The observations here should be seen as tentative and nothing in the petition should be deemed to have been admitted by the railways.

Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SANJIB BANERJEE, J.) kc.

AR(CR)

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