OC-4

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/711/2026

M/S. ADHUNIK CORPORATION LIMITED
VS
SRI GOURI SHANKER CHOUBEY

BEFORE:
The Hon'ble JUSTICE GAURANG KANTH
Date : 5th October, 2026.

Appearance:
Mr. Suddhasatva Banerjee, Adv.
Mr. Tanay Agarwal, Adv.
Mr. ChitreshSaraogi, Adv.
..for the petitioner

Mr. K. R. Thaker, Sr. Adv.
Mr. TanishGhaneriwala, Adv.
Mr. Ramendu Agarwal, Adv.
..for the respondent

The Court: The petitioner has preferred the present petition under Section 29A of the Arbitration and Conciliation Act, 1996.

The petitioner and the respondent are parties to an arbitral reference arising out of agreements dated 29th May, 2019 concerning the mining lease held by the respondent. By order dated 19th September, 2024, Justice Indira Banerjee (Retd.) was appointed as the Sole Arbitrator.The disclosure under Section 12 was made on 18th October, 2024 and the first sitting was held on 21st October, 2024. The petitioner filed its Statement of Claim on 6th January,

2025 and the respondent filed its Statement of Defence on 8th May, 2025. The petitioner states that its rejoinder was taken on record on 14th July, 2025 and that the pleadings stood completed on that date.

An application under Section 17 was thereafter considered by the learned Arbitrator. The matter was heard on 19th September, 2025 and orders were reserved.

No sitting has taken place thereafter and the said order remained unpronounced. The statutory period under Section 29A(1) has expired. The respondent's consent for grant of extension communicated on 10th August, 2026 cannot constitute consent under Section 29A(3), there being no consent on behalf of the respondent.

After filing of the present petition, the respondent vide letter dated 11th September, 2026, addressed to the learned Arbitrator, raised various allegations against the learned Arbitrator and challenged the mandate of the Arbitral Tribunal. In response, the learned Arbitrator vide letter dated 13th September, 2026 recused herself from the office of the arbitrator. The said act of the respondent in the reference is deprecated.

In view of the recusal of the learned Arbitrator by letter dated 13th September, 2026, her mandate stands terminated under Section 15(1)(a) of the Arbitration and Conciliation Act, 1996.

Both parties seek continuation of the reference. Having regard to the recusal of the learned Arbitrator, and to the fact that there has been no

progress since September, 2025 and the reference is yet to enter the stage of evidence, this Court considers it appropriate, in the interest of expeditious conclusion of the reference, to extend the mandate and appoint a substitute arbitrator.

Accordingly, Hon'ble Justice Amitava Roy (Retired), Former Judge of the Hon'ble Supreme Court be substituted as the Sole Arbitrator in place of Justice Indira Banerjee (Retired), Former Judge of the Hon'ble Supreme Court and the mandate is extended for a period of six months from today.

The learned substitute Arbitrator shall be deemed to be in continuation of the arbitral proceedings. All pleadings, applications, documents and other things on record shall continue to form part of the Arbitral Tribunal. The matter shall proceed from the stage at which it stood on 19th September, 2025. The application on which orders were reserved on that date shall, however, be heard afresh. The existing interim orders and direction shall continue until varied by the learned Tribunal.

The learned Sole Arbitrator shall enter upon the reference after making disclosure with Section 12(1) of the Act and subject to the provisions of Section 12(5) thereof.

The learned sole Arbitrator shall be entitled to fix the remuneration in accordance with the Fourth Schedule of the Act or as may be mutually agreed between the parties.

A copy of this order shall be communicated by the petitioner to the learned sole Arbitrator for necessary action.

It is clarified that all questions on merit and the rival allegations regarding delay are left open to be adjudicated by the learned Arbitrator in accordance with law.

With the aforesaid directions, the present petition stands disposed of.

(GAURANG KANTH, J.)

bp.