



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : Arb.P./6/2022

Mala C. Khonjuju W/o Dongsang C Khonjuju, R/o Janaching, P. Opposite Nafra Police Station, West Kameng, Bomdila, Arunachal Pradesh 790001

VERSUS

Roshni Dada and 2 Ors. W/o Sh. Kati Dada, Kapu Dada, Pipu, PS Changtajo, East Kameng Seppa, Arunachal Pradesh 790102. Also, at Kangko Village, Chimpu, Papum Pare, Itanagar, Arunachal Pradesh 791113

2:Rasop Dada Age: 0 Occupation : Ganga Village Near Govt. Sec School Ganga Itanagar Arunachal Pradesh 791113 PO and PS Itanagar

3:Kakang Dada Age: 0 Occupation : Ganga Village Near Govt. Sec School Ganga Itanagar PO/PS Itanagar Arunachal Pradesh 79111

Advocate for the Petitioner : Jyoti Zongluju

Advocate for the Respondent : Pritam Taffo

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 13-09-2023

Heard Ms. C. Roni, learned counsel for the petitioner.

None appears for the respondents on call.

2. When this matter was taken up for consideration on 12.06.2023, this Court had passed the following order:

“Heard Ms. J. Zongluju, learned counsel for the petitioner and Ms. M. Karbak, learned counsel for the respondents.

Ms. Karbak submits that the respondents have already taken back the file from the learned engaged counsel for the petitioner. As such, she has instruction to withdraw the vakalatnama from this case.

List the case after a week.

In the event of non-representation of the respondents on the next date, the court will proceed to dispose of the matter without hearing the respondents. “

3. In view of the order, dated 12.06.2022, passed by this Court, this arbitration petition is taken up for final disposal.

4. This is an application under Section 11 of the Arbitration & Conciliation Act, 1996, praying for an appointment of an arbitrator, in terms of Agreement, dated 29.11.2020, executed on 30.11.2020, between the respondent no. 1 as first party and the petitioner as the second party (Annexure P-1 to the Arbitration petition).

5. By the Agreement, dated 29.11.2020, the respondent no. 1 had borrowed a sum of Rs. 2,00,000/- (Two Lakh) from the petitioner @ 10 % interest, w.e.f. 21.02.2017. The loan amount along with the interest was agreed to be re-paid in full by March, 2021. The respondents no. 2 & 3 stood as guarantors for the money borrowed by the respondent no. 1.

6. The agreement dated 29.11.2020, *inter-alia* contains an arbitration clause in Clause - 6 & 7; which reads as under:

“6. That, in case of any dispute, an Arbitrator shall be chosen and appointed with the consent of both the parties, who shall settle the dispute as per the provision of this agreement as agreed by both the parties.

7. That, all the disputes so arisen shall be subject to Itanagar/Naharlagun Jurisdiction only."

7. On failure of the respondent to refund the money borrowed, along with interest, as agreed upon in the said agreement, the petitioner had sent a legal notice, dated, 07.03.2022, under Clause - 6 & 7 of the Agreement, dated 29.11.2020, for appointment of an arbitrator to resolve the dispute between the petitioner and the respondent no. 1. In the said notice, the petitioner had nominated/proposed Advocate T. T. Tara to act as an arbitrator to resolve the dispute between the petitioner and the respondent no. 1 and the consent of the respondent no. 1 was sought for to appoint Advocate T. T. Tara as an arbitrator. The respondent no. 1 neither replied to the notice, dated 07.03.2022, sent by the petitioner for appointment of the arbitrator nor the respondent no. 1 has filed an affidavit in the instant arbitration petition though the respondents had engaged a counsel to represent them, who however, was discontinued, as indicated in the order, dated 12.06.2023, quoted hereinabove.

8. Under the aforesaid circumstances, having regard to Clause - 6 & 7 of the Agreement, dated 29.11.2020, executed on 30.11.2020, between the petitioner and the respondent no. 1, in exercise of power under Section 11 (6) of the Arbitration & Conciliation Act, 1996, Hon'ble Mr. Justice C. R. Sarma, former Judge of the Gauhati High Court, who is one of the Panel of Arbitrators in the Notification No. 99, dated 4th August, 2023, issued by the Registrar General, Gauhati High Court, is hereby appointed as an arbitrator to resolve the dispute between the parties in the instant arbitration petition.

9. Let a copy of this order along with relevant records be transmitted to Hon'ble Mr. Justice C. R. Sarma, former Judge of the Gauhati High Court, the

appointed arbitrator, for doing the needful.

10. Arbitration petition stands disposed of, in terms above.

JUDGE

Comparing Assistant