

GAHC010235792023



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

Case No. : Arb.P./42/2023

MANJUNATHA. M,
S/O- LATE MUNIYAPPA, REGD. OFFICE- M SQUARE DEVELOPERS, NO. 38,
SAPTHAGIRI PALACE, 2ND FLOOR, 11TH CROSS NEAR CBI OFFICE,
LAKSHMAIAH BLOCK, GANGANAGAR, BENGALURU-560024,
KARNATAKA, PRESENTLY AT GUWAHATI C/O- M/S P N CHOUDHURY AND
ASSOCIATES, HOUSE NO. 42, TAIBULLAH CAMPUS, TAIBULLAHA, ROAD,
DIGHALIPUKHURI (EAST), P.S. LATASIL, GUWAHATI-781001, DIST.
KAMRUP(M), ASSAM

VERSUS

M/S UPASANA ENTERPRISES AND 2 ORS.
C/O- THEN LOCATED AT CENTURY PLAZA, G.S. ROAD, GANESHGURI,
GUWAHATI-78107, DIST. KAMRUP(M), ASSAM

2:UPASANA BORAH
D/O- DIMBESWAR BORAH
W/O- DEBASHIS BORAH
PRESENTLY R/O- H/NO. 2A
2ND FLOOR
UTSAV KANAN
HENGRABARI ROAD
DISPUR
GUWAHATI-781036
ASSAM AND PERMANENT RESIDENT OF VILL.- CHAUDHAPUNIA
P.S. NARAYANPUR
SUB-DIVN- NORTH LAKHIMPUR
BIHPURIA
DIST. LAKHIMPUR
ASSAM
PIN- 784161
ASSAM

3:DEBASHISH CHUTIA
S/O- LATE TARUN CHUTIA
R/O- H/NO. 2A
2ND FLOOR
UTSAV KANAN
HENGRABARI ROAD
DISPUR
GUWAHATI-781036
ASSA

Advocate for the Petitioner : MR. P N CHOUDHURY

Advocate for the Respondent : MR. P P DUTTA (R-2)

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

06.03.2024

1. Heard Mr. P.N. Choudhury, learned counsel for the petitioner and Mr. R. Sharma, learned Senior Counsel assisted by Mr. E. Ahmed, learned counsel for the respondent no.2.
2. The petitioner has prayed for appointment of an Arbitrator in terms of Section 11(6) of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as "the 1996 Act") as amended in the year 2015.
3. The case of the petitioner is that he is a permanent businessman from South India, who was interested in expanding his business in the State of Assam. Accordingly, the petitioner and the respondent No. 2 formed a partnership in the name and style of M/s Upasana Enterprises (respondent No. 1) at Guwahati.

4. The respondent No. 1 was to engage itself in the business of sale, purchase and manufacture of ice-cream under the trade name of Baskin Robbins.

5. The petitioner's counsel submits that due to a dispute that has arisen between the petitioner and the respondent No. 2 in running the business, which is in the name of the respondent No. 1, the petitioner would like to invoke the arbitration clause provided in the Deed of Partnership dated 21.05.2018 at Clause 25, which provides for dispute resolution through arbitration under the 1996 Act. He submits that though the respondent No. 2 had proposed an Arbitrator to decide the dispute between the parties, the petitioner is not acceptable to the proposal made by the respondent No. 2.

6. Mr. R. Sharma, learned Senior Counsel for the respondent no.2 submits that he does not have any objection to the prayer made by the petitioner's counsel.

7. Mr. P.N. Choudhury, learned counsel for the petitioner and Mr. R. Sharma, learned Senior Counsel for the respondent no.2 have agreed that this Court may appoint Hon'ble Mr. Justice (Retired) C.R. Sarma, as the Arbitrator to decide the disputes between the parties, inasmuch as, he is in the Panel of Arbitrators made by the Gauhati High Court, vide Notification No.99 dated 04.08.2023.

8. In view of the consent of the parties, Hon'ble Mr. Justice (Retired) C.R. Sarma is appointed as Arbitrator to decide the dispute between the parties. The

parties shall approach the learned Arbitrator within a period of 6 (six) weeks and take steps to certify whether the said Arbitrator suffers from any disqualification in terms of Section 12(5) of the 1996 Act and the 7th Schedule of the said Act.

10. The arbitration petition is accordingly disposed of.

JUDGE

Comparing Assistant