

IN THE HIGH COURT OF JUDICATURE AT PATNA
Request Case No.250 of 2017

Life Insurance Corporation of India through Manager, Swapn Kumar Shaw,
Son of Late Hari Kishun Shaw, (L. & H.P.F.), L.I.C.I. Division Office No.2,
Jeevan Ganga Building, Frazer Road, Patna.

... .. Petitioner/s

Versus

Sri Bijendra Kumar, Son of Late Janardan Sharma, Resident of Village-
Janardan Niwas Bela, Opposite T.V.S. Showroom, N.H.-98, P.O.+P.S.-
Naubatpur, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Raj Dular Sah, Advocate
For the Respondent/s : Mr. Anil Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

7 14-03-2018 In the execution of a lease agreement entered into between the parties, as is evident from Annexure-1 dated 24th August, 2015, as certain disputes have arisen, invoking the jurisdiction of this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996, this application has been filed and my attention is invited to clause 29 of the agreement which is an arbitration clause, *inter alia* contending that in spite of claim made, as is evident from Annexures 2 and 3, nothing has been done, this application has been filed.

On notice being issued, the respondent has filed a counter affidavit stating therein that as the petitioner has violated the terms and conditions of the agreement, no indulgence can be made into the matter.

Having bestowed my consideration to the objections raised, I find that the objections raised pertain to the merits of the dispute between the parties in the matter of default committed in execution



of the agreement particularly with regard to various claims made pertaining to labour payment, installation of D.G. Set etc. These are merits of the dispute between the parties and at this stage when only the prayer is to constitute an arbitral tribunal, all these disputes which touches the merits of the claim made are not to be looked into in this application. It is for the arbitral tribunal to consider all these claims and take a decision in the matter.

For the present, this Court finding to be an arbitration clause in the agreement between the parties and there is dispute between the parties with regard to execution of the agreement in question, I allow this application and direct for constitution of arbitral tribunal for adjudication of the dispute.

Accordingly, Mr. Justice Navaniti Prasad Singh, a retired Chief Justice of Kerala High Court is appointed as Arbitrator. All objections raised are kept open to be considered by the Arbitrator.

(Rajendra Menon, CJ)

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