

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.71 of 2019

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Mamta Prakash Wife of Gurtej Singh Hanshpal Resident of Krishna Bhawan,
Frazer Road, under Kotwali Police Station, Town and District-Patna

... .. Petitioner/s

Versus

M/s Anant Homes Pvt. Ltd. a company incorporated under the Company Act,
1956 bearing Registration No. U45200BR2005PTC011692 and having its
registered office at South Mandiri, Patna-1, through its Managing Director
Mr. Chandra Shekhar Kumar, son of Sri Surendra Nath Verma, residing at
South Mandiri, Patna at present registered office at House No. 13D, Road No.
12, Police Station Kadam Kuan, District-Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Navin Kumar, Advocate
For the Respondent/s	:	Mr.Gajendra Pratap Singh, Mr.H.D.K. Singh, Advocates

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 14-10-2020

Petitioner has prayed for the following relief(s):-

“For appointment of sole arbitrator as the
opposite party has failed to constitute and arbitral
tribunal under clause 25 of the registered
development agreement dated 09.05.2014 duly
executed and registered on 09.05.2014 between this
petitioner and Sudha Prakash, since deceased
mother of this petitioner on the one part and
opposite party on the other.”

The dispute inter se land owner and the builder emanates
out of an agreement termed as Development Agreement dated
9.5.2014 whereby the present petitioner allowed the present



respondent to develop the property owned by her.

Before this Court execution of the agreement is not in dispute.

Equally, there is no dispute that the agreement contained an Arbitration Clause No.25, which reads as under :

“That in case of the any differences and disputes arising out or so called to arose relating to the land and construction thereon out of agreement, will be settled by references to the Arbitrators one of the arbitrator to be nominated by the owner and his decisions, findings and verdicts so given, shall be binding, and conclusive under the provision of the Arbitration Act within the jurisdiction of the court of Patna.”

Petitioner alleges breaches of the agreement, prompting her to seek adjudication of the dispute through the mode of Arbitrator in relation to which notice, Annexure-2, stands issued.

On the other hand, the builder, i.e., respondent herein, has opposed the petition seeking appointment of the Arbitrator, solely on the ground of non-fulfilment of material terms of the agreement by the present petitioner.

Well, this Court is of the considered view that the dispute inter se parties to the lis, does emanates out of the agreement



dated 9.5.2014 containing an arbitration clause, of which one of the parties committed breaches and can be adjudicated by the arbitrator.

Before this Court it is evident, in fact not disputed, that disputes inter se the parties emanating the agreement have arisen. Otherwise there is no impediment in the appointment of the arbitrator. Significantly, respondent herein did not respond to the notice issued by the petitioner, seeking invocation of the arbitration clause. No rebuttal in response thereto is placed on the record.

As such, the dispute, civil in nature, emanating out of the agreement dated 9.5.2014 needs to be referred to the Arbitrator in terms of Clause 25.

At this stage, learned counsel for the parties jointly prayed that a retired Judge of this Court, namely, Hon'ble Mr. Justice Dinesh Kumar Singh be appointed as an Arbitrator to adjudicate the dispute.

No other plea raised or pressed.

Ordered accordingly.

Petition is disposed of in the following terms :-

- (a) Dispute inter se the parties emanating out of the agreement dated 9.5.2014 executed between the



petitioner and the respondent is referred to the arbitration of Hon'ble Mr. Justice Dinesh Kumar Singh, a former Judge of Patna High Court;

(b) The proceedings, as parties agreed, can be conducted through the mode of video conferencing;

(c) Parties undertake to appear before the learned Arbitrator on 3.11.2020 through virtual or physical mode. Further, fully co-operate and not take any unnecessary adjournment ;

(d) The parties undertake to appraise the learned Arbitrator of the passing of the order;

(e) whereafter the learned Arbitrator shall enter appearance;

(f) This Court is hopeful that the disputes shall be adjudicated at the earliest.

(g) Learned Arbitrator shall be entitled to fee as per the prescribed schedule;

(h) Learned Registrar General shall ensure that a copy of this order is made available to the learned Arbitrator(s) positively through an electronic mode on or before 3.11.2020;

(i) Parties shall file their statement of claims before



the learned Arbitrator(s) on such date of hearing, which
they may fix, as per mutual convenience;

(j) No order as to costs.

Interlocutory application, if any, stands disposed of.

(Sanjay Karol, CJ)

pallavi/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.10.2020
Transmission Date	

