

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.37 of 2021

=====

Md. Shahid Alam, Son of Md. Moti Alam, Resident of Village-Kunda, P.O.-Pathraita, P.S.-Sheikhpura, District-Sheikhpura, Partner of M/s R.S. Enterprises, Sheikhpura.

... .. Petitioner/s

Versus

1. Md. Sawood Alam, S/o Md. Moti Alam, Managing Director, M/S R.S. Enterprises, Sheikhpura, Resident of Village-Shuturkhana Salimpur, P.O.-Bank, P.S.-Mufassil, District-Munger, PIN-811201 (Bihar).
2. Md. Wahid Alam, S/o Md. Moti Alam, Partner, M/S R.S. Enterprises, Sheikhpura, Resident of Village-Shuturkhana Salimpur, P.O.-Bank, P.S.-Mufassil, District-Munger, PIN-811201 (Bihar).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Chandra Prasad Bharti, Advocate
For the Respondent/s :

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 24-11-2021

This application has been moved seeking appointment of an Arbitrator invoking the powers of this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996.

As per Office Report, Respondent Nos. 1 and 2 have refused to accept notice. As such, they are deemed to have been served.

Today, there is no appearance on their behalf. Hence proceeded *ex parte*.

Petitioner and the respondents entered into a written



agreement (Deed of Partnership) dated 18.09.2001. The said agreement contains an arbitration clause. There is amendment to the Deed of Partnership with the induction of the present respondents as partners. The petitioner has invoked the arbitration clause asking the respondents herein to appoint an Arbitrator, also setting out the terms of the dispute. There is yet another notice dated 7th of May, 2021 to this effect.

It is pleaded that the respondents have neither settled the dispute nor responded to the said notice. The disputes are civil in nature, arising out of the Deed of Partnership.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 18.09.2001 and subsequently entered into between the parties to the lis; (b) the existence of arbitration clause contained therein; (c) the existence of dispute(s) arising there from; (d) the dispute arisen out of the agreement being civil in nature; (e) no legal impediment in the adjudication of the dispute by the learned Arbitrator; f) Petitioner having exhausted the channel available for resolution of dispute; (g) the respondent having failed to appoint an Arbitrator pursuant to the invocation of the arbitration clause by the petitioner.

As such, Hon'ble Mr. Justice Dinesh Kumar Singh,



Former Judge of this Court is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 18.09.2001 entered into between the parties to the *lis*.

All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

Learned Arbitrator shall be entitled to fee as per the schedule of the Act.

Since the dispute arises out of an agreement of the year 2001, the hearing be expedited.

Parties are directed to fully cooperate and not take any unnecessary adjournment.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

It is expected of the learned Arbitrator to decide the issues expeditiously.

Joint Registrar (List) is directed to communicate the order to the learned Arbitrator.

Learned counsel for the parties to communicate the order to the learned Arbitrator. Also, parties are directed to appear before him, through physical/digital mode on 15th of



December, 2021 and apprise him of passing of this order.

Parties shall file their statement of claims before the learned Arbitrator on such date of hearing which he may fix, as per mutual convenience.

The Request Petition stands disposed of in the above terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

P.K.P/Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	10.12.2021
Transmission Date	

