

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.54 of 2021

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Phular Construction Co. (Pvt.) Ltd. Through its Managing Director namely Umesh Prasad Singh, aged about 59 years, (Male), Son of Nand Kishore Singh, Resident of House No. 112, Khabra, (Near Railway Crossing No. 5, Manjhaulia, Adarsh Nagar- 3, P.S.- Manjhaulia, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur, Bihar.
4. The Superintending Engineer, Flood Control Circle, Darbhanga, Bihar.
5. The Executive Engineer Flood Control Division- 2, Jhajharpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vikas Kumar, Advocate

For the Respondent/s : Mr. Deepak Sahay Januar, AC to AAG 4

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT
Date : 27-10-2021

Heard learned counsel for the parties.

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

“That in this case petitioner prays to this Hon’ble Court for appointment of an independent and impartial Sole Arbitrator for settlement of dispute between the parties arisen pursuant to Agreement Dated 15.02.2018, Agreement No. 06/SBD/207-18 for RAISING,



STRENGTHENING & EMBANKMENT
PROTECTION WORK IN BETWEEN 47 KM
TO 48 KM & 68 KM TO 75.00 KM OF RIGHT
KAMLA BALAN EMBANKMENT.”

Learned counsel for the petitioner invites attention of this Court to the communication dated 04.06.2021 addressed to the Superintending Engineer, Flood Control Circle, Darbhanga (Annexure-3); communication dated 06.07.2021 addressed to The Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur (Annexure-4).

Clause 25 of the agreement dated 15th February, 2018 (Page 14) contains the arbitration clause. The petitioner has fully exhausted the procedure stipulated therein.

Clause for arbitration stands invoked. However, none of the authorities have taken any action. The dispute, civil in nature, emanated from the agreement dated 15.02.2018, entered into between the petitioner and the respondent.

There is no dispute about-(a) the legality, validity and binding effect of the agreement dated 15.02.2018 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.

The dispute arises out of execution of Agreement dated 15.02.2018. The agreement contained an arbitration



clause, whereby the parties agreed for reference of the dispute *inter se* the parties, arising out of the said agreement, for arbitration as per law.

There is no legal impediment in the adjudication of the dispute by the learned Arbitrator.

As such, as jointly prayed for, Hon'ble Mr. Justice S. N. Jha, former Chief Justice, Rajasthan High Court is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 15.02.2018 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 2018, the hearing be expedited.

Parties undertake 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 also undertake to communicate the order to the learned Arbitrator. In fact, they volunteered to appear before him, through digital mode on 22nd of November, 2021 and apprise him of the passing of the 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)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	03.11.2021
Transmission Date	

