

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.63 of 2021

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M/s Ganesh Ram Dokania through its Authorized Signatory Mr. Tapan Kumar Singh, aged about 47 Years (Male), Son of Sri Jatin Chandra Singh, Resident of Mohalla - Indrapuri, Keshri Nagar, Road No. 7, House No. 13, P.O.- Keshri Nagar, P.S.- Patliputra, District - Patna - 24, Official Address - Nageshwar Colony, Basudeo Bihar Apartment, Flat No. 203, P.O.- G.P.O, P.S.- Buddha Colony, Patna - 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Bailey Road, Patna - 15.
2. The Principal Secretary, Water Resources Department, 'Sinchai Bhawan', Bailey Road, Patna - 15.
3. The Engineer-In-Chief (Middle), Water Resources Department, 'Sinchai Bhawan', Bailey Road, Patna - 15. Now it has been Changed as The Engineer-in-Chief, Flood Control and Water Drainage, Water Resources Department, 'Sinchai Bhawan', Bihar, Patna - 15.
4. The Chief Engineer, Water Resources Department, Bhagalpur Now it has been Changed as The Chief Engineer, Flood Control and Water Drainage, Water Resources Department, Katihar.
5. The Superintending Engineer, Water Resources Department, Irrigation Circle, Bhagalpur Now it has been Changed as The Superintending Engineer, Flood Control Circle, Water Resources Department, Bhagalpur.
6. The Executive Engineer, Water Resources Department, Irrigation Division, Bhagalpur Now it has been Changed as The Executive Engineer, Water Resources Department, Flood Control Division, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Sahay, Advocate

For the Respondent/s : Mr. Anjani Kumar, AAG 4
Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE



ORAL JUDGMENT
Date : 01-12-2021

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.

On 17.11.2021 the Court had passed the following order:-

“Shri Manish Sahay, learned counsel for the petitioner states that Clause (25) of the agreement dated 30th of May, 2012 (Annexure-P-2) (Page No. 71) stands complied with.

As prayed for, to verify such fact, list this case on 24th of November, 2021.”

The dispute emanates out of a written agreement dated 30.05.2012 entered into between the parties to the *lis*. Clause (25) of the agreement contained herein, providing for the dispute redressal mechanism, undisputedly stands complied with. Also, communication dated 11.02.2020 (Page-88-101) [Annexure-P-5] and reminder letter dated 13.07.2020 (Page-102) [Annexure- P-6] are on record, whereby the petitioner has asked the Executive Engineer, Water Resources Department, Irrigation Division, Bhagalpur to take a decision on the petitioner's claim setting out in terms of earlier



communications referred to therein, failing which the petitioner deemed to have invoked the arbitration clause.

None responded to the said communication.

There is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 30.05.2012 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 Shivaji Pandey, Former Judge of this Court, is appointed as learned Arbitrator to adjudicate all disputes arisen out of agreement dated 30.05.2012 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 2012, 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 undertake to communicate the order to the learned Arbitrator. In fact, they volunteered to appear before him, through physical/digital mode on 20th of December, 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/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.12.2021
Transmission Date	

