

ORDER

OD-2

AP/193/2021
IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL JURISDICTION

M/S. KUNDU PROJECTS PVT. LTD.
VERSUS
M/S. MOHONA PROJECTS PVT. LTD.

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
Date: 30th November 2021.

[Via Video Conference]

APPEARANCE:

Mr. Arijit Dey, Advocate
.....for the applicant

The Court:- None appears for the respondent though served. Affidavit of service has been placed on record by the learned counsel for the applicant.

This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed for appointment of an Arbitrator to resolve the dispute between the parties.

It is pointed out by the learned counsel for the applicant that the Development Agreement dated 8th January, 2015 was executed between the parties and that the applicant is the owner of the property whereas the respondent is the developer. He has also pointed out that the dispute has arisen between the parties. Therefore, the respondent had sent the notice dated 20th March, 2021 proposing the name of the Arbitrator to resolve the dispute in terms of the arbitration clause. But since the said proposed Arbitrator was not acceptable to the applicant, therefore, the reply dated 28th March, 2021 was sent by the applicant.

The Development Agreement dated 8th January, 2015 contains the following arbitration clause:-

“ARBITRATION--- *In case of any dispute difference of question arising between the parties hereto with regard to this*

agreement, the same shall be referred to arbitration under the provisions of the Arbitration and Conciliation Act, 1996 and/or any amendments, enactments and modifications thereof.”

From the correspondence, which has been pointed out by the learned counsel for the applicant, it is apparent that the dispute has arisen between the parties and an attempt to appoint the arbitrator mutually in terms of the arbitration clause has already failed.

No one has appeared on behalf of the respondent to dispute the arbitration agreement or clause therein.

Having regard to the above, I am of the opinion that a case is made out to appoint an arbitrator in terms of Section 11 of the Act and hence AP No.193 of 2021 is disposed of by appointing Mr. Debasish Roy, Advocate, Bar Association Room No.2 (Mobile No.9831173923) as the arbitrator to resolve the dispute between the parties.

(PRAKASH SHRIVASTAVA, C.J.)