

AP/266/2021
IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL JURISDICTION

ARUN KUMAR PRAMANIK
VERSUS
M/S. CHAKRABORTY AND COMPANY

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

[Via Video Conference]

APPEARANCE:

Mr. Supratick Syamal, Advocate
Mr. Goutam Acharya, Advocate
Mr. Gourab Ghosh, Advocate
.....for the applicant

The Court:- No one is present for the respondent though served.
Affidavit of service has been placed on record by 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.

Learned counsel for the applicant has pointed out that the Development Agreement dated 2nd December, 2015 was entered into by the applicant with the respondent and that the applicant is the owner of the property whereas the respondent is the developer and in terms of the agreement, the construction of G+3 was to be raised by the respondent but he had committed default in completing the proposed construction in terms of the agreement. Therefore, the applicant had given the notice dated 11th March, 2021 for appointment of the arbitrator in terms of the agreement. But in spite of service of notice, the respondent has not acted in terms of the arbitration clause. Therefore, the present application is filed.

The Development Agreement dated 2nd December, 2015 contains the following arbitration clause:-

“ARBITRATIONS**ALL DISPUTE AND DIFFERENCE BETWEEN THE PARTIES**

hereto regarding the said property or regarding the said determination of any liabilities of the parties or any other whatsoever or howsoever nature shall be referred to the arbitration and the same shall be being to the reference with the provision of Arbitration and Conciliation Act, 1996 and statutory modification or enactment thereunder from time to time and the party thereto declare that all of them have full trust and confidence in the arbitration.”

The respondent, in spite of service of notice, has chosen not to appear before this Court and dispute the arbitration agreement or the clause.

From the materials shown by the applicant, it is apparent that the dispute has raised between the parties. Therefore, considering the arbitration clause, I am of the opinion that a case is made out for appointing an arbitrator to resolve the dispute. Hence AP No.266 of 2021 is allowed and Mr. Shyamal Kumar Ray Chaudhury, a retired District Judge, r/o. 6/1M, Satchasi Para Road, PS. Cossipore, Kolkata – 700 002 is appointed an arbitrator in the matter.

(PRAKASH SHRIVASTAVA, C.J.)