

ORDER SHEET

AP 400 of 2020

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
COMMERCIAL DIVISION

MAA SIDDESWARI DEVELOPERS PVT. LTD.
Versus
RAJ KUMAR SINGH AND ORS.

BEFORE:
The Hon'ble JUSTICE DEBANGSU BASAK
Date : 19th January, 2021.

(Via Video Conference)

Appearance:
Mr. Subhankar Nag, Adv.
Mr. Daipawan Basu Mullick, Adv.
Ms. Ruchika Mall, Adv.

Mr. Sohail Haque, Adv.
Mr. M.I.A. Lodhi, Adv.

The Court: In a pending arbitration proceeding the petitioner, who is a party in such proceeding, seeks assistance of the Court under Section 27 of the Arbitration and Conciliation Act, 1996.

Learned Advocate appearing for the petitioner submits that, in the ongoing arbitration proceeding the learned Arbitrator, in the 23rd sitting of the arbitration held on October 19, 2020, observed that assistance of the Court under Section 27 of the Arbitration and Conciliation Act, 1996 may be obtained so that the document evidencing execution of the power of attorney can be called for from the office of the Registrar of Assurances, Kolkata.

Learned Advocate appearing for the petitioner submits that, the details of the power of attorney are tabulated in paragraph 37 of the petition. The Registrar

of Assurances be directed to produce such power of attorney as described in paragraph 37 of the arbitration petition.

Learned Advocate appearing for the respondent Nos.1 to 9 submits that, such power of attorney do not exist. He draws the attention of the Court to the photocopies of the development agreement annexed to the petition and submits that, such document contains blank where it purport to describe the power of attorney concerned. According to him, since such power of attorney do not exist, the question of directing the Registrar of Assurances to produce the same in the arbitration does not arise. He submits that, the petitioner contemporaneously requested the respondent to execute a fresh development agreement.

As a Court exercising powers under Section 27 of the Act of 1996, I am not called upon to pronounce on the merits of the disputes between the parties. It is for the Arbitrator in seisin of the dispute to adjudicate thereon.

It appears from the materials made available on record that, in the 23rd sitting of the arbitration, by the minutes dated October 19, 2020, the learned Arbitrator requested for production of documents evidencing execution of the power of attorney and that the same may be called for from the Registrar of Assurances, Kolkata.

The contention that such power of attorney do not exist, as raised on behalf of the respondent, need not be gone into at this stage and at least by a Court exercising powers under Section 27 of the Act of 1996. In the event a power of attorney as described in paragraph 37 of the petition exists and registered with the Registrar of Assurances, then the Registrar of Assurances will no doubt produce the same before the learned Arbitrator. In the event the same does not exist, the question of production of the same does not arise.

In such circumstances, the Registrar of Assurances, Kolkata, through any person duly authorised by him in this regard, will produce the three power of attorney as described in paragraph 37 of the petition within four weeks from the date of the petitioner making the request. When the petitioner makes the request of production, the petitioner no doubt will inform the Registrar of Assurances of the date of arbitration fixed for the purpose of production of such documents.

In the event the power of attorney, as described in paragraph 37 of the petition, was not registered with the Registrar of Assurances, Kolkata, then the Registrar of Assurances by himself or through a duly authorised officer in that behalf, intimate the petitioner in writing of the same. The petitioner is at liberty to produce such document before the learned Arbitrator. In such eventuality, the Registrar of Assurances or his duly authorised person need not appear before the learned Arbitrator.

It is clarified that the Court did not enter into the merits of the disputes inter se between the parties.

AP 400 of 2020 is disposed of accordingly.

(DEBANGSU BASAK, J.)