

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.38 of 2022

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Broad Son of Commodities Private Limited, a Company incorporated Under the Provisions of the Companies Act, 1956 Having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. Koilwar, District Bhojpur (Ara), through its Director Ashok Kumar aged about 66 Years (Male), Son of Ram Chandra Saw, resident of Village/Mohalla- Pareo, P.S.- BIhta, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner-Cum-Principal Secretary, department of Mines and Geology. Government of Bihar, Vikas Bhawan, Bailey Road, Patna 800001.
2. The Principal Secretary Cum Commissioner Mines, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800001.
3. Director, Mines and Geology, Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate-Cum-Collector, Saran Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha (GA 7)
		Mr. Naresh Dikshit, Spl. P.P. Mines

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 22-06-2022

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.

Petitioner and the respondents entered into a written agreement dated 31.03.2021 in furtherance of work order dated 31.12.2014 (Annexure -5 Page 101). The said agreement



contains an arbitration clause. The petitioner, vide notice dated 31.01.2022 (Annexure-29 Page 219) and notice dated 17.02.2022 (Annexure -31, Page 228), has invoked the arbitration Clause-9 of the notification No. 2887 dated 22.07.2014 (Annexure-2, Page 66), seeking appointment of an Arbitrator.

It is pleaded that the respondents have neither settled the dispute nor responded to the said notice. The disputes are civil in nature.

The only objection raised by Shri Naresh Dikshit, learned counsel appearing on behalf of the respondents is non-existence of the arbitration clause in the agreement, which, in fact, is the extension of the old agreement containing an arbitration clause.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 31.03.2021 and subsequently 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 Deepak Gupta, Former Judge of Hon'ble the Supreme Court of India, Mobile No. 9816533333, is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 31.03.2021 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 2021, it is expected of the learned Arbitrator to decide the issues expeditiously.

Parties are directed 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.

Joint Registrar (List) is directed to immediately



communicate the order to the learned Arbitrator.

Learned counsel for the parties to communicate the order to the learned Arbitrator. Also, parties are directed to appear before him, through physical/digital mode on 06.07.2022 and apprise him of passing of this 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)

Ashwini/Sujit

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.06.2022
Transmission Date	NA

