

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.52 of 2022

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M/s Umesh Kumar and Co. through its Managing Partner namely Umesh Kumar @ Umesh Kumar Roy, Gender- Male, aged about 60 years, Son of Sri Raja Prasad Roy, Resident of Ranjan Path Near Basudeo Palace, Bailey Road, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Road Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna.
2. The Engineer-in-Chief, Road Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna.
3. The Chief Engineer, National Highway, Sub-Division, Road Construction Department, Patna.
4. The Superintending Engineer, National Highway, Works Circle, Patna.
5. The Executive Engineer, National Highway, Gulzarbagh Division (West Division), Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lal Babu Singh, Advocate Mr. Amit Kumar, Advocate
For the Respondent/s	:	Mr. Uday Shankar Sharan Singh, GP 19

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 31-08-2022

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 (hereinafter referred to as the 'Act').

Petitioner and the respondents entered into a written agreement dated 17.02.2009 (Annexure-1 Page 18). The said agreement contains an arbitration Clause- 25 (Page 23) for settlement of disputes, which the petitioner invoked, vide notice



dated 06.11.2021 (Annexure-4, Page 29) to the Executive Engineer, National Highway, Road Construction Department, Works Division, NH Gulzarbagh, Patna; thereafter notice dated 25.11.2021 (Annexure-5 Page 31) to the Superintending Engineer, National Highway, Works Circle, Patna and notice dated 24.03.2022 (Annexure-8, Page 39) to the Chief Engineer, National Highway, Road Construction Department, Patna for appointment of an Arbitrator to adjudicate the dispute between the parties.

Today, there is no dispute about-(a) the legality, validity and binding effect of a written agreement dated 17.02.2009 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 respondents having failed to appoint an Arbitrator pursuant to the invocation of the arbitration clause by the petitioner.

As such, Hon'ble Mr. Justice V.K.Gupta, Former Chief Justice, Jharkhand High Court, Mobile No. 9650333000,



is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 17.02.2009 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 2009, 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 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 26.09.2022 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)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	09.09.2022
Transmission Date	

