

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.53 of 2021

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Bhavesh Kumar, S/o Late Nand Lal, resident of Flat No. A204, 2nd Floor,
Salarpuria Melody Apartments, Pantharapaiya, Near Nayandhalli Circle,
Nayandhalli Mysore Road, Bengaluru South, Bengaluru (Karnataka)-560039.

... .. Petitioner/s

Versus

Mr. Yogesh Kumar, son of Nand Lal, currently residing at A-347,
Shastrinagar, Nizampura, Vadodara (Gujrat)-390024.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanchay Srivastava, Advocate Mr. Ravi Prakash, Advocate Mr. Sourav Suman, Advocate Mr. Aalekh Anand, Advocate Mr. Sushant Srivastava, Advocate
For the Respondent/s	:	Mr.Ambuj Nayan Chaubey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 29-06-2022

This application has been filed for Appointment of Arbitrator in terms of Section 11(6) of the Arbitration & Conciliation Act, 1996, in light of the Arbitration Clause in Partnership Deed dated 05.08.2017 between the parties; Clause 9 of Partnership Deed dated 17.09.2015 and further in the light of family settlement dated 15.01.2019 which the respondents are not adhering to and are denying the rightful claim of the petitioner.

Petitioner and the respondent entered into written agreements dated 05.08.2017 (P-1, page-22) and 17.09.2015 (P-2, Page-37) Agreement dated 17th of September, 2015,



whereunder the present petitioner, namely Shri Bhavesh Kumar, became partner in terms of Clause-7 contained therein. The agreement (P-1, page-22) contains an arbitration clause (Clause-17, page-29). The petitioner, invoked the arbitration Clause-17 seeking appointment of an Arbitrator and vide communication dated 6th August, 2018 (page-48) sent notice to the respondent, to which the respondent responded on 1st of March, 2021 (page-87) refuting the claims.

It is pleaded that the respondents have not settled the dispute till date. The disputes are civil in nature, arising out of the agreements (P-1, page-22 and P-2, page-37).

Today, there is no dispute about-(a) the legality, validity and binding effect of written agreements (P-1, page-22 and P-2, page-37) 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, all disputes inter se the parties to the lis arising out of agreement (P-1, page-22) and agreement (P-2, page-37) are referred to the arbitration of Hon'ble Justice Smt. Gyan Sudha Mishra, Former Judge of the Supreme Court of India, Tel. No. 011-23019738.

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 2015 & 2017, 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 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 her, through physical/digital mode on 29.07.2022
and apprise her of passing of this order.

Parties shall file their statement of claims before the
learned Arbitrator on such date of hearing which she 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)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.07.2022
Transmission Date	

