

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.87 of 2022

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Kashish Developers Limited Registered Office at -87 Old AG Colony, Kadru, Ranchi, Jharkhand-834002, Local address at-201, Kamla Sadan Apartment, Punai Chak, District-Patna, through its Director Mukesh Kumar, aged about 45 years, Gender-Male, son of Sri Mukut Prasad Rao, Resident of 171 Mushahari, Bijbaniya, P.S.-Lauriya, West Champaran, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner, Building Construction Department, Government of Bihar, Patna.
2. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Chief Engineer (South) Building Construction Department, Government of Bihar, Patna.
4. The Executive Engineer, Building Construction Department, Building Division, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar, Advocate Mr. Kundan Kumar, Advocate Mr. Ayush Kumar, Advocate Mr. Yogesh Kumar, Advocate Mr. Kanisk Kaustubh, Advocate
For the Respondent/s	:	Mr. Uday Shankar Sharan Singh, GP-19

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 14-12-2022

Heard learned counsel for the parties.

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 respondent entered into a written



agreement dated 10.06.2015 (Annexure-1, page-34). The said agreement contains an arbitration clause (Clause-25, page-115). The petitioner, invoked the arbitration clause vide communication dated 19.05.2022 (Annexure-7, Page 163), but to no avail.

It is pleaded that the respondents have not settled the dispute till date. The dispute is civil in nature, arising out of the agreement dated 10.06.2015 (Annexure-1, page-34).

Today, there is no dispute about-(a) the legality, validity and binding effect of the written agreement dated 10.06.2015 (Annexure-1, page-34) 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 the 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 Hemant Gupta, former Judge, Supreme Court of India (Mobile No. 9780008108) is



appointed as learned Arbitrator to adjudicate all disputes arising out of agreement dated 10.06.2015 (Annexure-1, page-34) 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 2015, the hearing be expedited.

Parties undertake to fully cooperate and not take any unnecessary adjournment.

The issue of limitation, if any, is left open to be raised before the learned Arbitrator.

It is expected of the learned Arbitrator to decide the issues expeditiously.

Joint Registrar (List) is directed to communicate the order to the learned Arbitrator.

Learned counsel for the parties also undertake to communicate the order to the learned Arbitrator. In fact, they volunteered to appear before him, through digital mode/physical mode on 2nd of January, 2023 and apprise him of the passing of the 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)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	16.12.2022
Transmission Date	

