

OD 26

ORDER SHEET
AP/222/2021
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

ANWARUL ISLAM ALIAS SHAIKH ANWARUL ISLAM AND ANR
VS
MRS. WAHEEDA KHATOON AND 11 ORS

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date: 24th November, 2022.

Appearance:

Mr. Debojyoti Basu, Adv.
Mr. Triptimoy Talukder, Adv.
Mr. Diptomoy Talukder, Adv.
. . .for the petitioners.

Mr. Tarique Quasimuddin, Adv.
Mr. Abbas Ibrahim Khan, Adv.
. . .for the respondent nos.1, 2, 3, 4, 11 & 12.

The Court: Heard counsel appearing on behalf of the parties.

Affidavit of service filed in Court be kept with the records.

This is a Section 11 application for appointment of an Arbitrator to resolve the disputes between the parties. The petitioners are the landlords of a building while the twelve respondents are the occupiers/agreement holder/trespassers in the building. In terms of a memorandum of agreement between the parties, there is an arbitration clause. Subsequent to the memorandum of agreement the parties have entered into other agreements that have also referred to the said memorandum of agreement and incorporated provisions therein.

In light of the same, the arbitration clause in the memorandum of agreement is in force.

Mr. Tarique Quasimuddin, counsel appearing on behalf of the respondent nos.1, 2, 3, 4, 11 and 12, has submitted in Court that respondent no.11 has died in the month of December, 2021 and the legal heirs will have to be added as party to the arbitration agreement. He is accordingly, directed to inform the petitioner of the legal heirs within seven days from date who will also be the party in the arbitration. None has appeared on behalf of the respondent nos.5 to 10 in spite of service.

In light of the above, the parties appearing before this Court have consented to the appointment of a sole Arbitrator in stead of the three Arbitration Tribunal as proposed in the arbitration clause. Keeping in view the Supreme Court judgments on point, this Court has the power to appoint a sole Arbitrator when parties consent to the same.

In light of the above, Mr. Dhruva Ghosh, Advocate, Bar Library Club, [Mobile No. 9831095116] is appointed as an Arbitrator to resolve the disputes between the parties. The appointment is subject to submission of declaration by the Arbitrator in terms of Section 12(1) in the form prescribed in the Sixth Schedule of the Act before the Registrar, Original Side of this Court within four weeks from today.

Let this order be conveyed to the Arbitrator by the Registrar, Original Side forthwith.

In light of the above order passed AP 222 of 2021 is disposed of.

(SHEKHAR B. SARAF, J.)

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