

AP/293/2022  
IN THE HIGH COURT AT CALCUTTA  
ORIGINAL CIVIL JURISDICTION

REINFORCED EARTH INDIA PRIVATE LTD.  
VERSUS  
M/S.SIMPLEX INFRASTRUCTURES LIMITED

BEFORE:  
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA

DATE : 10<sup>TH</sup> JUNE, 2022.

APPEARANCE:

Mr. Pushpal Chakraborty, Advocate  
Ms. Amrita Panja Moulick, Advocate  
Ms. Prisanka Ganguly  
.....for the applicant.

The Court:- This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed for appointment of Arbitrator to resolve the dispute between the parties.

Learned counsel for the applicant has pointed out that the purchase order dated 15.12.2017 was issued by the respondent in favour of the applicant. Thereafter, the amended purchase order was issued. The said purchase order contained the following arbitration clause:

“24. *Dispute Resolution, Governing Laws and Jurisdiction:*

- a) *In the event of any dispute or difference arising out of and in connection with the Purchase Order, such disputes shall be firstly attempted to be settled by mutual discussions. In case of failure of the parties to reach to an amicable settlement within 30 days from the date of referring the dispute for mutual discussion, the disputes will be referred to arbitration.*
- b) *On failure of amicable settlement as mentioned in sub clause (a) of this clause, the dispute or differences shall thereafter be settled under the Arbitration and Conciliation Act, 1996 as amended from time to time by a sole arbitrator appointed by the Company Secretary (CS) of the Purchaser. The venue of arbitration shall be Kolkata, India and the language of the arbitration shall be English. The award of the arbitrator shall be final and binding upon the parties.*

*The Hon'ble Courts at Calcutta will have the exclusive jurisdiction to adjudicate all matters arising out of the Purchase Order.*

c) *The governing law of this Purchase Order will be the laws of India. ”*

It has also been pointed out that dispute had arisen between the parties because the respondent had not made full payment to the applicant in pursuance to the said purchase order. Therefore, the notice dated 03.03.2022 was issued to the respondent which was duly served upon the respondent, but no response was sent.

In spite of service of notice in the present case, no one is present for the respondent to contest this application, hence the arbitration clause and the service of notice invoking the arbitration clause have remained undisputed.

Having regard to the fact that arbitration agreement as also dispute exists between the parties, I am of the opinion that a case is made out for appointment of arbitrator to resolve the dispute between the parties.

It is pointed out by learned counsel for the applicant that in similar circumstances between the same parties, by the order dated 13<sup>th</sup> April 2022 in AP No.76 of 2022, Mr. Krishnaraj Thaker, Advocate (Mobile No.9830116355) has been appointed as arbitrator.

Having regard to the circumstances of the case, AP No.293 of 2022 is allowed and Mr. Krishnaraj Thaker, Advocate is appointed as arbitrator to resolve the dispute 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

AP is accordingly disposed of.

(PRAKASH SHRIVASTAVA, C.J.)