

IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL JURISDICTION
(Original Side)

A.P. No. 434 of 2022

Reserved on: 05.08.2022
Pronounced on: 26.08.2022

Asish Sutradhar and Anr.

...Petitioners

-Vs-

Parimal Kundu

...Respondent

Present:-

Mr. Soumen Das, Advocate
... for the applicant

**Coram: THE HON'BLE JUSTICE PRAKASH SHRIVASTAVA,
CHIEF JUSTICE**

Prakash Shrivastava, CJ:

1. Affidavit of service filed by the applicant reveals that the respondent has duly been served twice.
2. This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed by the applicant for appointment of arbitrator to resolve dispute between the parties.
3. Learned Counsel for the applicant has pointed out that the development agreement dated 12th of March, 2017 annexure 'A' was executed between the parties which contains following arbitration clause:

“16. If there are any differences of opinion or disputes between the parties regarding the conditions in future then first the two parties shall try to resolve it by discussions under the Arbitration Act. If due to some reason the same arbitration fails then the parties shall get the said dispute

resolved in the appropriate court under the laws prevailing in the country.”

4. It has also been pointed out that since dispute arose between the parties, therefore, notice under Section 21 dated 17.05.2022 was sent by the applicant with the request to appoint the arbitrator but the respondent by the reply dated 04.06.2022 had turned down the said request.

5. In spite of service of notice in the present A.P., no one has appeared for the respondent to contest the above contention of the application.

6. Having regard to the aforesaid circumstances of the case, I am of the opinion that a case for appointment of the sole independent arbitrator is made out to resolve the dispute between the parties. Accordingly, A.P. No. 434 of 2022 is allowed. Mr. Bishajib Ghosh (Mobile No. 9836461646), advocate of this Court is appointed as sole arbitrator, 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.

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

8. A.P. is accordingly disposed of.

(PRAKASH SHRIVASTAVA)
CHIEF JUSTICE

Kolkata
26.08.2022

PA(SS)

(A.F.R./N.A.F.R.)