

AP/645/2022

IN THE HIGH COURT AT CALCUTTA  
ORIGINAL CIVIL JURISDICTIONSMT. LALITA MUKHERJEE & ORS.  
VERSUS  
SUMANA DASGUPTABEFORE:  
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA  
DATE : 30<sup>th</sup> September 2022.

## APPEARANCE:

Mr. Haradhan Banerjee, Advocate  
Mr. N. Das, Advocate  
Mr. Partha Pratim Mukhopadhyay, Advocate  
..... for the applicants.

The Court:- Affidavit of service filed by the applicant is taken on record.

This application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of the arbitrator.

The agreement for joint venture was executed between the parties on 10<sup>th</sup> December 2018, which contained the following arbitration clause:-

“Article – 9 :- ARBITRATION :-

*In case of any dispute, difference or questions arising between the parties with regard to interpretation, meaning or scope of this agreement or any right, duty or liabilities of the parties under the agreement or out of this agreement or any matter whatsoever concerning this agreement, the same shall be referred to an Arbitrator and decided as per Arbitration Act, whose decisions and award shall be final and binding upon the parties.”*

He further submits that since dispute had arisen, therefore, by email dated 16<sup>th</sup> March 2022, the applicants had agreed for cancellation for cancellation and thereafter had sent the notice dated 9<sup>th</sup> June 2022 invoking the

arbitration clause and proposing the name of the arbitrator, but in spite of service of notice, no response was received by the applicant.

Before this Court also, though the notice has been served upon the respondent, no one has appeared to oppose the application. Hence, the arbitration agreement and service of notice under Section 21 to the respondent have remained undisputed. Thus, a case for allowing the prayer for appointment of the arbitrator is made out.

Accordingly, AP is allowed.

Mr. Priyankar Saha, Advocate (Mob. 9830015091) of this Court, is appointed as sole arbitrator to resolve the dispute between the parties, 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.)