

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.108 of 2022

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1. Aman Kumar, Son of Anil Kumar, Resident of -Gabhtal, Gandhinagar, P.S.- Danapur, Dist- Patna, Pin- 800012.
 2. Anket Kumar alias Amit Kumar S/o Anil Kumar, Resident of -Gabhtal, Gandhinagar, P.S.- Danapur, Dist- Patna, Pin- 800012.
 3. Anil Kumar, Son of Late Sh. Bashudev Singh, Resident of - Gabhtal, Gandhi Nagar, Danapur, P.S.- Danapur, District- Patna, Pin- 800012.

... .. Petitioner/s

Versus

1. M/s Maitreyee Maha Nirman LLP through its partner Smt. Rukhsar Khanam, having its registered office at Flat No. 207, Block B, Sai Vatika, Phool Kunwar Palace, R.K. Puram, Danapur, Khagaul Road, P.S- Danapur, District- Patna, Pin- 801503.
2. Ram Babu Ray, Son of Kusheshwar Rai, partner of M/s. Maitreyee Maha Nirman L.L.P., Resident of Anand Bazar, Post- Danapur Cant, P.S.- Danapur, District- Patna, Pin-801503.
3. Niteen Kumar, S/o Ramdeep Singh, Partner of M/S Maitreyee Maha Nirman L.L.P., R/o - Nayatola, Saguna, Post- Danapur Cant, P.S- Danapur, District- Patna Pin-801503.
4. Vijay Kumar, S/o Vishwanath Ray, Partner of M/S Maitreyee Maha Nirman L.L.P. R/o- Near Shiv Mandir, Jamauddinchak, P.S.- Danpar, Khagaul Road, District- Patna, Pin- 801105.
5. Rukhsar Khanam, W/o Kaushar Khan, Partner of M/S Maitreyee Maha Nirman L.L.P., R/o Flat No.- 207, S.S. Enclave, Ashiyana, Digha Main Road, P.S. - Rajiv Nagar, District- Patna, Pin -800014.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh, Advocate Mr. Nikhil Singh, Advocate Ms. Alka Singh, Advocate Mr. Satyendra Prasad Singh, Advocate
For the Respondent/s	:	None

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 08-05-2023

The respondents have not appeared despite service



of notice on 02.03.2023. Even on the last occasion, on 12.04.2023, the matter was adjourned awaiting appearance for the respondents.

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.

Petitioners and the respondent entered into an agreement dated 22.08.2019 (Annexure-P/1). The said agreement contains an arbitration Clause (Clause-24). The petitioners invoked the said arbitration clause vide communication dated 12.06.2022 (Annexure-P/7), but to no avail.

It is pleaded that the respondents have not settled the dispute till date and the dispute is of civil in nature.

Today, there is no dispute about-(a) the legality, validity and binding effect of the written agreement 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 arising 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 Shyam Kishore Sharma, a former Judge of the Patna High Court, is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement 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.

The 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 2019, the hearing be expedited.

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

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.

The Arbitral Tribunal shall issue notice to the respondents.



The Request Petition stands disposed of in the
above terms.

(K. Vinod Chandran, CJ)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	10.05.2023
Transmission Date	

