

OD-1

ORDER SHEET

AP/395/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

SUKANTA DAS AND ANR.
VS
SAILENDRA NATH GHOSH

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 13th July, 2023.

Appearance:

Mr. Lakshmi Nath Bhattacharya, Adv.

Mr. Debasis Sur, Adv.

Mr. Hare Krishna Haldar, Adv.

The Court: The submissions made on behalf of the parties make it more than evident that there is not only an agreement between the parties but also a dispute.

The petitioner claims to be the purchaser of immovable property from the respondent who is the owner of the said land. The parties entered into a Memorandum of Understanding dated 2nd August, 2020 with regard to the terms and conditions of transfer of the respondent's property to the petitioner and the price to be paid by the petitioner for purchase of the said property. The MoU contains an arbitration clause. The arbitration clause does not provide for a seat but provides that disputes will be resolved under the Arbitration and Conciliation Act, 1996.

The petitioner made part-payment of the agreed amount to the respondent but alleges that the respondent refused to register the immovable

property in the petitioner's name. The petitioner was constrained therefore to send notice under Section 21 of the 1996 Act on 21st March, 2023 to the respondent under the arbitration clause. The letter contains a date of 21st September, 2023 which counsel submits has been erroneously typed. The respondent answered to this letter on 29th March, 2023 without referring to the arbitration clause but stating that the respondent has filed a Title Suit against the petitioner before the Chinsurah Court for declaration and injunction. The respondent disagreed with the contents of the Section 21 notice on the ground that the dispute between the parties is pending adjudication before the Chinsurah Court.

Although learned counsel appearing for the respondent submits that a Title Suit is pending between the parties, the material disclosed and the submissions made on behalf of the parties make it clear that the parties fall within Section 11(6)(a) of the 1996 Act.

AP/395/2023 is, accordingly, allowed and disposed of by appointing Cardina Roy, Advocate to act as the Arbitrator to resolve the disputes and differences between the parties subject to the Arbitrator communicating his consent in the prescribed form to the Registrar, Original Side within three weeks from date.

The advocate-on-record of the petitioner shall communicate this order on the Arbitrator by tomorrow together with particulars of the contact person.

(MOUSHUMI BHATTACHARYA, J.)