

OD-5

ORDER SHEET

AP/483/2023

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

LOVELY PROMOTERS PRIVATE LIMITED
VS
SHRI MANOJ KUMAR BOTHRA AND ANR.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 3rd August, 2023.

Appearance:

Ms. Noelle Bannerjee, Adv.
Mr. Siddhartha Sharma, Adv.
Mr. Rishav Dutt, Adv.
Ms. Shaline Basu, Adv.

Mr. Jishnu Chowdhury, Adv.
Mr. Soumyadeb Sinha, Adv.
Ms. Joey Chatterjee, Adv.
Mr. Abhishek Roy, Adv.

The Court: The dispute between the parties arises out of an Agreement for sale of a flat in an apartment complex in Kolkata by the respondents to the petitioner. The Agreement is dated 2nd March, 2021. The Agreement contains an arbitration clause of each of the parties choosing one Arbitrator and the Arbitrators choosing the presiding Arbitrator thereafter. The dispute relates to

the Agreement for Sale being cancelled by the respondents on 9th December, 2021. The intervening fact, which may not be material to the dispute, is that the petitioner was asked to take steps for eviction of the licensee who was in occupation of the flat. The petitioner initiated a litigation in this regard. The other, however, came to a naught on the respondents cancelling the Agreement in December, 2021. The petitioner also initiated proceedings against the respondents for interim relief in the meantime.

The petitioner invoked the arbitration clause on 1st June, 2022 issuing a notice under Section 21 of the 1996 Act. The respondents did not reply to this letter.

The dispute is evident. The notice under Section 21 also mentions the petitioner's claim for damages but the petitioner's inability to quantify the claim.

Although the arbitration clause in the Agreement contemplates three Arbitrators, learned counsel appearing for the parties are agreeable to a sole Arbitrator.

AP/483/2023 is accordingly allowed and disposed of by appointing Kalyan Jyoti Sengupta, former Chief Judge of Andhra Pradesh (Mob : 9441444666) to act as the learned Arbitrator to resolve the disputes and differences between the parties, subject to the Arbitrator communicating

his/her consent in the prescribed format to the Registrar, Original Side of this Court within a period of four weeks from date. The petitioner's advocate-on-record shall communicate this order on the Arbitrator by 5th August, 2023 with the relevant particulars of the contact person.

Learned counsel appearing for the petitioner submits that pursuant to a direction of a Division Bench of this Court the petitioner has already paid approximately Rs.40.94 lakhs to the Collector under the Indian Stamp Act, 1899 and has got a stamped Agreement pursuant to the exercise.

(MOUSHUMI BHATTACHARYA, J.)