

ORDER SHEET

AP/650/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

VKM PROJECTS PRIVATE LIMITED AND ORS.
Versus
M/S. HARSHA CONSTRUCTIONS AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 11th October, 2023.

Appearance:

Mr. Rachit Lakhmani, Adv.

Mr. S. Nayak, Adv.

Ms. Pooja Sah, Adv.

Mr. S. Makkar, Adv.

Mr. Avijit Ghoshal, Adv.

The Court: The dispute between the parties arises out of a Joint Venture Agreement dated 6th September, 2021 between two partnership firms and one company. One of the partnership firms is the respondent in the present application.

The dispute is relatable to the Joint Venture Agreement under which the parties agreed to develop and construct infrastructure projects. The parties also entered into a supplementary agreement in the nature of an Addendum to the Joint Venture Agreement on the same day that is 6th September, 2021. The arbitration agreement is embedded in the Joint Venture Agreement and carried forward to the supplementary agreement. Clause 10 of the supplementary agreement incorporates the contents of the Joint Venture Agreement including the arbitration clause.

The dispute essentially relates to the petitioners not being remunerated for the work done in terms of and under the JV and the supplementary agreement. It was the respondents' obligation to procure the work and for the partners of the JV to perform the work. The petitioners' case is that the petitioners performed the work but were not paid for it.

The petitioners issued several notices of demand including on 30th June, 2022 and thereafter invoked the arbitration clause by two separate letters of 17th April, 2023 and 30th May, 2023. The respondents have not replied to any of these letters including the letters of demand.

The respondents are represented and learned counsel appearing for the respondents submits that the Court may appoint a suitable Arbitrator.

There is indeed a dispute between the parties and one that is required to be resolved under the arbitration agreement.

AP/650/2023 is allowed and disposed of by appointing Ms. Chandreyee Alam, counsel to act as the Arbitrator subject to the learned Arbitrator communicating her consent in the prescribed format to the Registrar, Original Side of this Court within three weeks from date.

The petitioner's advocate-on-record shall communicate this order on the learned Arbitrator by 13th October, 2023 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)