

OCD-14

ORDER SHEET

AP/656/2023

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

NARHARI PRASAD K KOYA  
Versus  
HARMILA N KOYA AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : September 12, 2023.

Appearance

Mr. Soumabho Ghose, Adv.  
Ms. Iram Hassan, Adv.  
Mr. Sanket Sarawgi, Adv.  
...for the petitioner

Mr. Rohit Banerjee, Adv.  
Mr. Paritosh Sinha, Adv.  
Ms. Shrayashee Das, Adv.  
...for the respondent no. 1

Mr. Aritra Basu, Adv.  
Mr. Rajesh Upadhyay, Adv.  
...for the respondent no. 2

The Court: From the submissions made by learned counsel appearing for the petitioner and the respondents, who are the four partners of a partnership firm, namely, M/s. Indian Chemicals and Minerals, it is evident that there is a dispute existing between the parties. The dispute arises out of the Deed of Partnership dated 6<sup>th</sup> February, 2001 which contains an arbitration clause at

Clause 22 of the Deed. The arbitration agreement, however, mentions the Arbitration Act, 1940, which parties agree should be read as The Arbitration and Conciliation Act, 1996.

The existence of a dispute would be evident from the chain of correspondences exchanged between the parties starting with a letter of dissolution of the partnership firm given by the petitioner on 14<sup>th</sup> November, 2022 and the respondents' response to the same of 15<sup>th</sup> December, 2022. The petitioner thereafter invoked the arbitration agreement by a notice under Section 21 of the 1996 Act on 19<sup>th</sup> June, 2023 nominating an Arbitrator. Two of the respondents agreed to the nomination while the third disagreed to the nomination. None of the respondents, however, disagreed to the existence of the arbitration agreement. The dispute appears to be the mode and manner of running the partnership firm.

The respondents in any event do not oppose to appointment of an Arbitrator to resolve the disputes.

AP/656/2023 is accordingly allowed and disposed of by appointing Mr. K. M. Joseph, former Judge of the Supreme Court to act as the learned Arbitrator subject to the learned Arbitrator communicating his/her consent in the prescribed format to the Registrar, Original Side of this Court within three weeks from date. The petitioner shall communicate this order on the learned Arbitrator by 15<sup>th</sup> September, 2023 along with the requisite details of the contact person.

The respondents insist that since the respondents have not had the chance to file their affidavits-in-opposition, the allegations made in the petition are deemed not to have been admitted.

The affidavit of service is kept on record.

(MOUSHUMI BHATTACHARYA, J.)

sg.