

OD-15

ORDER SHEET

AP/640/2022

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

PRADEEP AGARWAL
Versus
MURARI LAL AGARWAL AND ANR.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 15th June, 2023.

Appearance:

Mr. Sourajit Dasgupta, Adv.

Mr. Pingal Bhattacharyya, Adv.

Mr. Neil Basu, Adv.

The Court: The petitioner and the respondents are three brothers and are parties to a Memorandum of Understanding (MoU) dated 22nd February, 2000 by which the parties had reciprocal obligations to carry out certain transactions essentially for sale of properties including land in Rajasthan.

The petitioner says, through learned counsel, that the respondents have not only taken steps to prevent the petitioner from carrying out his obligations in terms of the MoU but that the respondents have also sold one of the lands in question to third parties.

Learned counsel appearing for the respondents submits that the petitioner has already got payment of about Rs.10 lakhs and there is no fetter on the petitioner to carry out his obligations under the MoU.

Apart from the submissions made, the pleadings also show that a dispute exists between the parties. Clause 10 of the MoU provides for two Arbitrators, who are also relatives of the parties before the Court, to sort out the differences which may arise between the parties.

It is evident that the petitioner and the respondents have been unable to agree on the mechanism provided under Clause 10 and would hence fall under Section 11(6)(a) of the 1996 Act.

AP/640/2022 is accordingly allowed and disposed of by appointing Mr. Kalyan Jyoti Sengupta, former Chief Justice of the High Court of Judicature of Hyderabad for the State of Telengana of to act as the Arbitrator, subject to his consent being communicated to the Registrar, Original Side, of this Court in the required format under Section 12 and the Schedules to the 1996 Act. The consent shall be communicated within three weeks from date and this order shall be communicated to the Arbitrator forthwith.

(MOUSHUMI BHATTACHARYA, J.)