

OD-8

ORDER SHEET

AP/750/2023

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

MERLIN PROJECTS LIMITED
Versus
ONKAR GARG AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : December 18, 2023.

Appearance:

Mr. Satadeep Bhattacharyya, Adv.
Mr. Saptarshi Datta, Adv.
Ms. Srinjita Ghosh, Adv.
Mr. Pourush Kanti Pal, Adv.
Mr. Debdut Hore, Adv.
...for the petitioner

Ms. Debanwita Pramanik, Adv.
...for the respondents

The Court: The respondents are now represented.

The dispute between the parties arises out of a Joint Development Agreement dated 2nd July, 2018 by which the petitioner, as the developer, paid Rs.50 lakhs to the respondents land owners. The petitioner was to develop 60 cottahs of land along with the respondents. Several steps towards the construction were carried out including mutation in respect of the land. The respondents, however, threatened to terminate the Joint Development Agreement by way of a letter dated 4th January, 2023 on the ground of delay on

the part of the petitioner. The petitioner replied to this notice on 23rd January, 2023 and the respondents thereafter replied on 18th February, 2023.

The petitioner also applied for interim protection from the learned Alipore Court whereby the petitioner obtained an order on 17th May, 2023 restraining the respondents from disturbing the state of affairs in the said property. The petitioner thereafter issued the notice invoking arbitration on 27th June, 2023. The Court is also informed that the petitioner was given liberty to withdraw an earlier application under Section 11 by an order dated 5th October, 2023.

The dispute would be evident from the Section 21 notice issued by the petitioner as well as the letters exchanged between the parties after the respondents threatened to terminate the agreement. The petitioner now claims return of the investments made by the petitioner for the joint development of the concerned project.

The arbitration agreement contained in the Development Agreement dated 2nd July, 2018 covers the disputes and differences which have now arisen between the parties post-termination.

The objection taken on behalf of the respondents that the dispute is a matter of title is not acceptable since the petitioner is claiming its rights under the Development Agreement. The respondents do not say that the respondents were not parties to the arbitration agreement.

AP/750/2023 is accordingly 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 20th December, 2023 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)

sg.