

ORDER SHEET

AP/832/2023

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

BENGAL MERLIN HOUSING LIMITED
VS
WEST BENGAL HOUSING BOARD

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 11th December, 2023.

Appearance:

Mr. Jishnu Chowdhury, Adv.
Mr. Satadeep Bhattacharya, Adv.
Mr. Saptarshi Dutta, Adv.
Ms. Srinjita Ghosh, Adv.
Mr. P.K. Pal, Adv.
Mr. Debdut Hore, Adv.
...for the petitioner

Mr. Dhilon Sengupta, Adv.
Ms. Sohini Mukherjee, Adv.
...for the respondent

The Court: The dispute between the parties arises out of a Development Agreement dated 4th May, 2010. The Development Agreement contains an arbitration clause.

The terms and conditions, mutually agreed upon, were that the petitioner would invest in the acquisition of land by the respondent for developing certain parts of the city. The petitioner would also be in charge of the process of development.

The undisputed position is that the respondent failed to take steps for acquisition of the land and the project ultimately became economically

unviable. The petitioner hence sought to back out from the project and have the land which was already in the kitty of the respondent sold for making good some of the loss suffered by the petitioner.

These facts would appear from the petitioner's notice of invocation dated 20th September, 2023 which the respondent replied to on 4th October, 2023. The respondent's reply in fact points to a clear dispute where the respondent has alleged the petitioner's failure to execute the project and has also reserved appropriate legal recourse for the petitioner's failure.

This, then, is certainly a dispute between the parties which is required to be adjudicated by an Arbitrator. The arbitration clause in the Development Agreement covers dispute brought to the Court.

AP/832/2023 is allowed and disposed of by appointing Mr. Deepak Gupta, former Judge of the Supreme Court to act as the Arbitrator subject to the learned Arbitrator communicating his 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 December, 2023 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)