

AP/804/2022

IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL JURISDICTION

DEBASISH BHATTACHARYYA
VERSUS
SRI SOUMEN DASGUPTA

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
DATE : 5TH JANUARY, 2023.

APPEARANCE:

Mr. Debjit Mukherjee, Advocate
Mr. Lal Ratan Mondal, Advocate
Ms. Susmita Chatterjee, Advocate
Mr. D. Ganguly, Advocate
Mr. K. Bhattacharya, Advocate
.....for the applicant.

The Court: Affidavit of service filed is taken on record.

This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed for appointment of the arbitrator to resolve the dispute between the parties.

Learned counsel for the applicant has pointed out that the Development Agreement dated 25th April, 2013 was executed between the parties and the said agreement contained the following arbitration clause:

"ARBITRATION

17. In case there is any dispute or difference arising out of relating to any questions interpretations or any terms and conditions or covenants as are continued in this agreement or in case there is any dispute as to execution of any document either in favor of the intending buyers of either the developer or the owner or any interpretation of the terms and condition as contained in this presence between the parties the same shall be referred to arbitration of single arbitrator appointed by the developer and owner whose decision shall be binding upon the owner and in such reference of arbitration the provisions of Indian Arbitration Act and/or any other statutory modification or enactment shall apply mutatis mutandis."

He has also pointed out that since dispute had arisen between the parties, therefore, applicant had served the notice dated 2.11.2022 upon the respondent invoking the arbitration clause and proposing the name of one of the retired Hon'ble Judges of this Court for appointment as sole arbitrator but in spite of service of notice no response was given by the respondent. Therefore, the present application has been filed.

Before this Court also no one has appeared for the respondent to contest this AP though the respondent is served.

In view of the above undisputed arbitration agreement and the fact that the dispute exists between the parties and notice in terms of Section 21 has duly been served, I am of the opinion that the case for accepting the prayer for appointment of the sole arbitrator to resolve the dispute between the parties is made out. Accordingly, AP is allowed and Justice Ranjit Kumar Bag (Mobile no.8335073594), retired Judge of this Court, is appointed as sole arbitrator, subject to submission of declaration by the arbitrator in terms of Section 12(1) in the form prescribed in the Sixth Schedule of the Act before the Registrar, Original Side of this Court within four weeks from today.

Let this order be conveyed to the arbitrator by the Registrar, Original Side forthwith.

Accordingly, AP is disposed of.

(PRAKASH SHRIVASTAVA, C.J.)