

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.61 of 2024

Phular Construction Co. (Pvt.) Ltd. through its Managing Director namely Umesh Prasad Singh, aged about 63 years (Male), son of Nand Kishore Singh, resident of House No. 112, Khabra, (Near Railway Crossing No. 5), Manjhaulia, Adarsh Nagar-3, P.S.-Manjhaulia, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Goplaganj, Bihar.
4. The Superintending Engineer, Flood Control Circle, Goplaganj, Bihar.
5. The Executive Engineer, Flood Control and Drainage Division, Chhapra (Saran).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Manish Prakash, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, Advocate General
		Mr. Vikash Kumar AC to AG.

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 19-07-2024

Heard learned counsel for the parties.

2. This application has been moved seeking appointment of an Arbitrator invoking the powers of this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996.

3. Petitioner and the respondents entered into an agreement dated 15.02.2012 (Annexure-P/1). The said agreement contains an arbitration clause as Clause-25. The



petitioner invoked the arbitration clause vide communications dated 15.07.2022, 08.09.2022 and 18.10.2022 (Annexure-P/8), (Annexure-P/9) and (Annexure-P/10) respectively for appointment of an arbitrator, but to no avail.

4. It is pleaded that the respondents have not settled the dispute till date and the dispute is of civil in nature.

5. Today, there is no dispute about-(a) the legality, validity and binding effect of the written agreement entered into between the parties to the lis; (b) the existence of arbitration clause contained therein; (c) the existence of dispute(s) arising there from; (d) the dispute arising out of the agreement being civil in nature; (e) no legal impediment in the adjudication of the dispute by the learned Arbitrator; (f) Petitioner having exhausted the channel available for resolution of the dispute; (g) the respondent having failed to appoint an Arbitrator pursuant to the invocation of the arbitration clause by the petitioner.

6. As such, Mr. D.K. Sharma, a retired District Judge, is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement entered into between the parties to the lis.

7. All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

8. The learned Arbitrator shall be entitled to fee as per



the schedule of the Act.

9. Since the dispute arises out of an agreement of the year 2012, the hearing be expedited.

10. The issue of limitation, if any, is left open to be raised before the Arbitral Tribunal.

11. Joint Registrar (List) is directed to communicate the order to the learned Arbitrator.

12. Learned counsel for the parties also undertake to communicate the order to the learned Arbitrator.

13. The Arbitral Tribunal shall issue notice to the respondents.

14. The Request Petition stands disposed of in the above terms.

(K. Vinod Chandran, CJ)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

