

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.63 of 2023

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Ramakant Singh son of Late Ram Khelawan Singh, Resident of New Godown, Maharani Road, P.S.-Kotwali, District and Town-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna.
2. The Engineer-in-Chief, Building Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna.
3. The Chief Engineer (South), Building Construction Department, Patna, Bihar.
4. The Superintending Engineer, Building Construction Department, Building Circle, Gaya.
5. The Executive Engineer, Building Construction Department, Building Division, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lal Babu Singh, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, AG
		Mr. Vikas Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 05-01-2024

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 respondent entered into an agreement dated 22.10.2016 (Annexure-1). The said agreement contains an arbitration clause as Clause-25. The petitioner invoked the said arbitration clause vide communication dated 27.03.2023 (Annexure-2) and notice dated 07.06.2023 (Annexure-4) 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 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, Hon'ble Mr. Justice Shyam Kishore Prasad, a former Judge of the Patna High Court, 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 2016, 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)

sharun/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.01.2024
Transmission Date	

