

ORDER SHEET

AP/29/2024

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

SRI ANIL CHANDRA GHOSH AND ANR.
Versus
DEBI PRASAD DAS AND ANOTHER

BEFORE:
The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA
Date : February 26, 2024.

Appearance:
Mr. Someswar Chakrabarti, Adv.
...for the petitioners

Mr. Kazi Ardar Ali, Adv.
...for the respondent no. 2

The Court: This is an application under Section 11 of The Arbitration and Conciliation Act, 1996. The dispute between the parties arises out of a Development Agreement dated 19th January, 2016 between the petitioners, who were to develop the land and the respondents who were the owners of the said land.

The petitioners, through learned counsel, complain that the petitioners could not perform the terms of the agreement since the respondents refused to hand over necessary documents in pursuance of the Development Agreement. Counsel places letters written by the petitioners to the respondents including the notice of 25th July, 2022 invoking the arbitration clause in the Development Agreement. The respondents replied to this letter of 3rd August, 2022 citing pendency of proceedings before the

State Consumer Commission. The petitioners wrote to the respondents again on 17th August, 2023 but without much success since the respondents remained silent thereafter. It is now settled that an arbitration agreement between the parties would have an independent life of its own regardless of whether the parties are before the Consumer Forum in view of the fact that the Arbitration and Conciliation Act, 1996 is a special statute. The disputes in the present case are directly relatable to the arbitration clause contained in the Development Agreement and the respondents do not have a defence to the disputes and differences being referred to arbitration.

AP/29/2024 is allowed and disposed of by appointing Mr. Prantik Gorai, counsel 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 28th February, 2024 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)

sg.