

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

AP-COM/437/2024
PRANAB DAS AND ANR
VS
JAYA KUNDU AND ANR

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 22nd May, 2024

Appearance:
Mr. Rabindra Kumar Mitra, Adv.
Mr. Sourjya Das, Adv.
Ms. Poulami Bhowmick, Adv.
...for the petitioner.

The Court: This is an application under Section 11 of the Arbitration & Conciliation Act, 1996. Despite opportunities, the respondents have refused to appear. The matter was heard on 10 April, 2024, 13 April, 2024 and 14 May, 2024 when the respondents were unrepresented.

Affidavit of Service filed in Court suggests that the respondents have been duly served.

The disputes between the parties arise out of a Development Agreement dated 9 August, 2018.

The agreement dated 9 August, 2018, inter alia, provides “*that in case of dispute and difference between the parties hereto the matter shall be referred to Arbitration and decision of the Arbitrator shall be full and final binding upon the parties.*”

It is alleged that after the death of the original promoter, the heirs of the promoter are in breach of their obligations under the agreement dated 9 August, 2018. There has also been misuse of the Power of Attorney dated 9 August, 2018.

By a notice dated 30 January, 2022 issued under Section 21 of the Arbitration & Conciliation Act, 1996, the petitioners were compelled to invoke the arbitration clause and seek appointment of an Arbitrator. There has been no response to such notice.

In such view of the matter, there are live arbitral disputes by and between the parties which are covered under the arbitration clause.

AP-COM/437/2024 stands disposed of by appointing Mr. Rachit Lakhmani, Advocate as Arbitrator in terms of the aforesaid clause, subject to the Arbitrator communicating his consent to the Registrar, Original Side of this Court within three weeks from date.

The Advocate on Record of the petitioner shall communicate this order to the Arbitrator forthwith and positively within 10 days from the date of passing of this order.

With the aforesaid directions, AP-COM/437/2024 stands disposed of.

(RAVI KRISHAN KAPUR, J.)