

ODC-8

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
[COMMERCIAL DIVISION]

AP-COM/471/2024

JAY VIJAY BUILDERS PRIVATE LIMITED
VS
R B DIAGNOSTIC PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 1st May, 2024.

Appearance:

Mr. Nikunj Berlia, Adv.

Mr. Varun Kothari, Adv.

Ms. Noelle Banerjee, Adv.

Ms. Somali Bhattarcharjee, Adv.

The Court: This is an application filed under Section 11 of the Arbitration and Conciliation Act, 1996. The disputes between the parties arise out of a building construction agreement dated 20 October, 2021 entered into by and between the parties.

In terms of the Agreement the respondent was to fund the petitioner for construction of a G+6 storied building measuring about 32,200 sq.ft. built up area.

It is also alleged that subsequent to completion of construction of the said building and issuance of an Occupancy Certificate by the Municipal Authority, an amount of Rs.61,36,812/- remains due and payable. Despite exchange of correspondences between the parties, the parties have failed to arrive at a mutual settlement and the respondents have failed to honour their obligation.

Thereafter, the petitioner invoked the arbitration clause under section 21 of the Act and issued a letter dated 9 February, 2024.

Clause 13 of the agreement is as follows ;

“XIII. In case of any dispute or difference arises between the parties during the progress of or after construction or abandonment of the work as to the meaning of construction or touching or relating either to the said buildings or works, or to any other matter or things arising directly or indirectly under this agreement, then in such an event the same shall be referred to sole arbitrator as mutually agreed between both the parties and the final decision of a sole arbitrator shall consider and determine to be final and the award passed by the sole arbitrator shall be binding and conclusive upon both the parties and this clause shall be deemed a submission with the meaning of the Arbitration and Conciliation Act, 1996 or statutory modification or amendment thereof.”

There are live disputes between the parties covered under the arbitration clause arising out of an agreement dated 9 September, 2021. In view of the failure to agree upon a Sole Arbitrator, the instant application has been necessitated.

In such circumstances, AP-COM 471 of 2024 stands disposed of by appointing Mr. Rudraman Bhattacharya, Advocate, as a Sole Arbitrator, 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 Learned Arbitrator forthwith and positively within 10 days from the date of passing of this order.

(RAVI KRISHAN KAPUR, J.)