

IN THE HIGH COURT AT CALCUTTA
Ordinary original civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

AP-COM/499/2024
Saraidhela Developers Llp.
VS
Jitendra Investment Company Ltd.

BEFORE:
The Hon'ble JUSTICE RAVI KRISHAN KAPUR
Date : 14th May, 2024.

Appearance:
Mr. Utpal Bose, Sr. Adv.
Mr. Nilay Sengupta, Adv.
Mr. Sujit Banerjee, Adv.
Mr. Altamash Alim, Adv.
...for the petitioner.

Mr. Dhruva Ghosh, Sr. Adv.
Mr. R. Banerjee, Adv.
Mr. E. Bhattacharya, Adv.
Ms. P. Sah, Adv.
...for the respondent.

The Court: This is an application under Section 9 of the Arbitration & Conciliation Act, 1996.

The disputes between the parties arise out of an Agreement dated 4 January, 2013.

Article XI of the Agreement dated 4 January, 2013, inter alia, provides as follows :

“(i) All disputes and differences between the parties hereto regarding the construction or interpretation of any of the terms and conditions herein contained or touching these presents or determination of any right, title, interest or liability either during the continuance of this agreement or upon its termination or any matter relating to or arising out of this agreement or

determination or termination of this agreement shall be referred to Arbitration under the Arbitration and Conciliation Act, 1996;

(ii) The parties hereby agree that until the award is given none of the parties shall do any act, deed or thing whereby the construction of the said building is in any way stopped or prevented provided the dispute is not relating to the quality of the material being used and/or relating to violation of the statutory provisions and/or deviation from the sanction plan nor shall be determination and/or termination of the agreement be given effect to;”

Briefly, the respondent is an owner of a plot of land measuring approximately 2 bighas 3 cottahs 4 chittaks lying at Dhanbad. In or about March, 2012, the respondent had approached the petitioner for financial assistance. Pursuant to negotiations, the petitioner agreed to advance a sum of Rs.1,56,00,000/- at 15% interest. Subsequently, on 4 January, 2013, the subject agreement for development and construction of the aforesaid premises was entered into by and between the parties. There are reciprocal obligations of both the parties under the agreement. It is alleged that pursuant to the aforesaid agreement, the respondent has failed and refused to make payment of the entire principal amount (inclusive of interest). This submission is denied by the respondent who alleges that in fact, there are payments receivable from the petitioner.

Both the parties unequivocally agree that there are live arbitrable disputes under the aforesaid agreement which require to be adjudicated.

By consent of the parties, Hon’ble Mr. Justice Subrata Talukdar (Retired) is appointed 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.

During the interregnum, it is agreed that any conveyance which is to be signed by the respondent would be handed over by the petitioner to the Advocates who would forward the same to the Advocates on behalf of the respondent. Upon receipt of the same, the respondent would do all necessary acts and forthwith sign and return the same to the Advocates on behalf of the petitioner within a period of one week from receipt thereof. In respect of the firefighting equipment to be installed at the premises, which the petitioner is obliged to complete and the respondent is statutorily obliged to obtain, liberty is granted to both the parties to make an appropriate application before the Arbitrator for appropriate reliefs.

It is submitted on behalf of the petitioner that necessary application for the firefighting equipment has been made before the statutory authorities. On behalf of the respondent, it is submitted that the same has not been taken to its logical conclusion. All points are left open to be decided by the Arbitrator.

With the aforesaid directions, AP-COM/499/2024 stands disposed of.

(RAVI KRISHAN KAPUR, J.)