

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

AP/89/2024
SERVAN AGARWAL AND ANOTHER
VS
MERLIN PROJECTS LIMITED

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 7th May, 2024.

Appearance:

Mr. Ovik Sengupta, Adv.

Mr. Jayanta Datta, Adv.

Mr. Biman Kumar Saha, Adv.

Mr. Atanu Mondal, Adv.

...for the petitioner.

Mr. Satadeep Bhattacharyya, Adv.

Mr. Saptarshi Datta, Adv.

Ms. Srinjita Ghosh, Adv.

Mr. Pourush Kanti Pal, Adv.

Mr. Debdut Hore, Adv.

...for the respondent.

The Court: This is an application under Section 11 of the Arbitration & Conciliation Act, 1996.

The disputes and differences between the parties arise out of an agreement for sale dated 10 June, 2022 whereby the petitioner was to purchase a flat in a building complex known as 'Merlin Urvan' situated at 147, R.N. Guha Road, Dum Dum, Kolkata – 700 028.

Clause 33 of the agreement dated 10 June, 2022, inter alia, provides as follows :

“33.DISPUTE RESOLUTION:

All or any disputes arising out or touching upon or in relation to the terms and conditions of this Agreement, including the interpretation and validity of the terms thereof and the respective rights and obligations of the Parties, shall be settled

amicably by mutual discussion, failing which the same shall be settled under the Arbitration and Conciliation Act, 1996.”

It is submitted that pursuant to the said agreement the petitioner had advanced approximately a sum of Rs.27 lakhs which is 30% of the sale consideration. After receipt of the aforesaid payment, the respondent has failed to comply with their obligations under the agreement and has, in fact, terminate the agreement.

After considering the submissions of the parties and on the basis of the pleadings, there are live arbitral disputes covered under the arbitration clause which requires to be adjudicated.

In such circumstances, AP/89/2024 stands disposed of by appointing Gourdas Mitra (Mobile No.9830069298) as 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 Arbitrator forthwith and positively within 10 days from the date of passing of this order.

With the aforesaid directions, AP/89/2024 stands disposed of.

Since the respondent has not filed any affidavit, the allegations contained in this application are denied.

Affidavit of Service filed in Court be kept with the records

(RAVI KRISHAN KAPUR, J.)