OCD-7

ORDER SHEET

AP-COM/1025/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION
ORIGINAL SIDE

G.K. INFRATECH

VS

BENGAL SHELTER HOUSING DEVELOPMENT LTD.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 18thDecember, 2024.

Appearance:
Mr. A. Choudhury, Adv.
Ms. Pooja Sah, Adv.
...for the petitioner
Ms. Rashmi Bothra, Adv.
Ms. Jayati Choudhury, Adv.
Ms. Reshmi Singhee, Adv.
Ms. Mandabi Choudhury, Adv.
...for the respondent

The Court: Petitioner prays for appointment of an arbitrator on the basis of the dispute resolution clause which appears in the work order dated October 31, 2017. As the arbitration clause provides for unilateral appointment of an arbitrator by the employer, the petitioner has approached this Court upon invocation of the arbitration clause after serving due notice under Section 21 of the Arbitration and Conciliation Act, 1996.

The law has been settled by the Hon'ble Apex Court in ***Perkins Eastman Architects DPC and Anr. Vs. HSCC (India) Ltd.*** reported in ***(2020) 20 SCC 760*** and ***Central Organization for Railway Electrification vs. M/s***

ECI SPIC SMO MCML (JV) A Joint Venture Company reported in ***2024 INC 857***, that unilateral appointment of arbitrator cannot be permitted.Thus the mode of appointment of an arbitrator in the arbitration clause incorporated in the work order has now become ineffective. However the fact that the parties agreed to settle the dispute by way of an arbitration is accepted. The petitioner has thus approached this Court for appointment of an arbitrator in respect of the disputes arising out of seven work orders which have been mentioned in paragraph 21 of the application, which are quoted below.

SL. NO.	Date	Reference
1	October 31, 2017	BSHDL/Tech/2017-18/183/GKI/TK • Extra items of work approved by letter dated July 31, 2018 bearing reference no. BSHDL/Tech/2018-19/GKI/TK
2	June 6, 2017	BSHDL/Tech/2017-18/49/GKI/TK • Approval of extra item of work approved by letter dated August 2, 2019 bearing reference no. BSHDL/Tech/2019-20/130/GKI/TK
3	August 2, 2018	• BSHDL/Tech/2018-19/142/GKI/TK
4	May 22, 2018	• BSHDL/Tech/2018-19/42/GKI/TK
5	April 12, 2019	• BSHDL/Tech/2019-20/021/GKI/TK
6	August 2, 2019	• BSHDL/Tech/2019-20/131/GKI/TK
7	October 21, 2019	• BSHDL/Tech/2019-20/194/GKI/TK

This Court finds that the dispute is alive as the parties submit that intermittent payments were made and the parties had also taken steps for conciliation. Under such circumstances, this Court appoints Mr. Surojit Nath Mitra, learned senior advocate as the sole arbitrator, to arbitrate upon the disputes between the parties.

The appointment is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996 and the learned arbitrator shall fix his remuneration as per the Schedule of the Act.

All points are kept open to be decided by the learned arbitrator that may be urged by the respective parties.

AP-COM 1025 of 2024 is accordingly disposed of.

All parties are to act on the basis of the server copy of this order.

(SHAMPA SARKAR, J.)

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