

Items 5. 14-01-2025

FMA 228 of 2006

sg Ct. 12

Sabita Dutta
Versus
Asit Baran Dey

Mr. Kaushik Chaudhury
Ms. Busra Khatun
...for the respondent

1. In spite of service of administration notice upon the appellant, there is no representation on behalf of the appellant. Although the appellant was given an opportunity to appear and contest the proceeding but the appellant has chosen not to participate in the said proceeding and accordingly, we decide to dispose of the appeal on consideration of the materials available in records.

2. However, pursuant to the service of administrative notice, the opposite party no.1 is represented by the learned Counsel and the learned counsel undertakes to file vakalatnama in the department in course of the day.

3. This appeal is arising out of an order passed by the Hon'ble Justice S. S. Ganguly (Retired) on 25th June, 2004 in the arbitration proceeding. The minutes of the proceeding held on 25th June, 2004 shows that the *ad interim* order passed was made absolute in the second sitting of the proceeding. The learned Arbitrator directed the parties to disclose documents and by consent of the parties, the matter was fixed on 9th July, 2004 (wrongly typed as 9th July, 2005) at 5 p.m. for examination-in-chief of the witness of the claimant.

4. The issue whether the agreement for development was acted upon, was a matter to be considered by the learned Arbitral Tribunal. There was no challenge to the interim order which was made absolute in the second sitting of the arbitral proceeding.

5. On such consideration, we do not find any reason to interfere with the order. The appeal is dismissed. However, there shall be no order as to costs.

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)