

OCD-16

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/124/2025

KRED REALTIES LLP
VS
ISHAANI ELECTRONICS PVT. LTD.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 26th February, 2025.

Appearance:
Mr. Satadeep Bhattacharyya, Adv.
Ms. Sriparna Mitra, Adv.
For petitioner

The Court : This is an application for appointment of a learned Arbitrator. The respondent is not before the Court despite service.

Affidavit of service is taken on record.

It appears that the respondent duly received the notice under Section 21 of the Arbitration and Conciliation Act, 1996 as well.

The petitioner is the developer and the respondent is the sub-lessee. A Memorandum of Understanding dated March 30, 2016 was entered into between the respondent as the sub-lessee and the petitioner as the developer to develop an immovable property for commercial purpose. The rights and obligations of the parties have been elaborated in the said Memorandum of

Understanding. The Memorandum of Understanding contains an arbitration clause which is quoted below:-

“In case of any dispute, difference or questions of interpretation arising amongst the parties to the MOU and subsequent all agreements on any matter or thing arising hereunder or in connection therewith, such dispute or matters shall be referred to a Sole Arbitrator who shall be appointed by both the parties within the meaning of the Arbitration and Conciliation Act, 1996 and he is so nominated on consent of all the parties to this agreement. The Award made and published by the Arbitrator shall be final and binding upon the parties.”

The petitioner contends that the rights and obligations under the said agreement to be discharged by the respondent were not discharged. Accordingly, the respondent committed breach. The time for completion of the construction was three years from the date of commencement of the construction. According to the petitioner, the respondent has not started the construction. Thus, disputes arose and thereafter several communications were exchanged between the parties. Ultimately, when the disputes were not resolved and the respondent continued to commit breach, a notice invoking arbitration was issued on December 17, 2024. It also appears that by an order dated October 3, 2024, the learned Judge, Commercial Court at Rajarhat had passed an ad interim order of injunction restraining the respondent from dealing with and/or disposing of and/or alienating and/or encumbering and/or creating any third party interests in respect of the property in question.

Prima facie it appears that the dispute is still alive. However, the issues with regard to the jurisdiction of the Arbitrator, arbitrability of the disputes, limitation etc. can be raised by the respondent before the learned Arbitrator.

The arbitration clause provides for appointment of a Single Arbitrator.

Accordingly, this Court appoints Mr. Sakya Sen, learned Senior Advocate as learned Arbitrator to arbitrate upon the disputes between the parties. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

The learned Arbitrator shall fix his remuneration in terms of the Schedule of the Act.

AP-COM NO. 124 of 2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)

Sb/pa