

IN THE HIGH COURT AT CALCUTTA
(COMMERCIAL DIVISION)
ORIGINAL SIDE

AP-COM/125/2025

SATYA NARAYAN SHAW
VERSUS
SOURAV GHOSH

BEFORE :

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 7th April, 2025.

Appearance :
Mr. Bodhisatta Biswas, Adv.
...for the petitioner

The Court : 1. Substituted service has been effected by paper publication in "Times of India" and "Ei Samay". Paper publication is taken on record.

2. Despite service none appears for the respondent.

3. The respondent is the owner of a shop room situated on the ground floor of the premises, being Mohana Apartment at 67/1A, B.T. Road, Kolkata, 700002. The petitioner allegedly entered into an agreement for sale on July 3, 2024 with the respondent. Clause 10 of the said agreement contemplates reference of the disputes to the arbitration of a sole Arbitrator.

4. Allegedly, an amount of Rs.15 Lakhs was advanced by the petitioner at the time of execution of the agreement. A further amount of Rs.45 Lakhs was paid to the respondent by two separate cheques.

5. It is alleged that the possession of the shop was handed over to the petitioner on August 10, 2024. The respondent was required to execute the deed in favour of the petitioner by December 2, 2024. The respondent failed to honour the contractual liability under the clause, despite repeated reminders. The petitioner expressed willingness to pay the remaining balance amount of Rs.20,00,000/-. A notice was issued on December 5, 2024, thereby invoking the arbitration clause.

6. The petitioner filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 before the learned Commercial Judge at Alipore. An order of injunction was granted by the learned Court, restraining the respondent and his men and agents from selling, transferring, alienating and/or encumbering the property in any manner.

7. The interim order is subsisting till date.

8. Under such facts and circumstances, the petitioner has prayed before this Court for appointment of a sole arbitrator.

9. The duty of the referral Court is to ascertain whether there is an existing arbitration clause. Clause 10 of the Agreement for sale provides, that in case of any dispute between the parties, arising out of, or in connection with the said Indenture, the same shall be referred to an arbitrator. The arbitration will be under the Arbitration and Conciliation Act, 1996 and the award of the arbitrator shall be final and binding on the parties.

10. Under such circumstances, leaving all objections that are available to the respondent with regard to the admissibility of the claim, admissibility of the

indenture in evidence, arbitrability of the issues, delay etc., open, and to be raised before the learned Arbitrator, the application is allowed.

11. Mr. Sukanta Chakraborty, learned Advocate, Bar Association (mobile :9836337012), is appointed, as the sole arbitrator, to arbitrate upon the disputes between the parties. The learned Arbitrator shall comply with the provisions of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall be at liberty to fix his remuneration as per the Schedule of Arbitration and Conciliation Act, 1996.

(SHAMPA SARKAR, J.)