

OCD -8

ORDER SHEET

AP-COM/170/2025

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

SOUMEN PAUL

VS

K.C. ASSOCIATES AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 10th March, 2025.

Appearance:

Mr. Sagnik Chatterjee, Adv.

Mr. Sayan Mukherjee, Adv.

.... for the petitioner

Mr. Supratic Roy, Adv.

Mr. Shuvojit Roy, Adv.

...for respondent nos. 1 to 4

The Court: **1.** This is an application for appointment of a learned Arbitrator. The petitioner and the respondent No. 5 are the land-owners and the respondent nos. 1 to 4 are the developers. The dispute arises out of a development agreement dated June 24, 2019. The development agreement contains an arbitration clause which is quoted below :

“X – Miscellaneous :-

c) Disputes – Differences in opinion in relation to or arising out during execution of the housing project under this agreement shall be intimated by a registered letter/Notice and then to an arbitral

tribunal/arbitrator for resolving the disputes under this arbitration & conciliation Act, 1996, with modification made from time to time. The arbitral tribunal shall consist of one arbitrator who shall be an Advocate, to be nominated by both the parties or their legal advisors.”

2. The petitioner invoked arbitration by notice dated January 20, 2025. The respondent nos. 1 to 4 replied to the said notice and proposed mediation. The petitioner is not willing to go for mediation and prays for adjudication by a learned arbitrator. The petitioner alleges that the developers did not fulfill their obligation. The respondent nos. 1 to 4 submit that there were disputes with regard to handing over clear possession to the developers. The land owners failed to hand over possession. Under such circumstances, all these issues shall be decided by the learned arbitrator. This Court finds that the contract period was for 36 months from the date of execution of the agreement on 24th June, 2019, which could be extended by further six months. The dispute in my prima facie view is alive. It is alleged that nothing was done by the developers within the afore-mentioned period. The arbitrability of the disputes and the question of limitation are left open, to be decided by the learned arbitrator.

3. Under such circumstances, the application is disposed of by appointing Mr. Rajarshi Dutta, learned Advocate, Bar Library Club as the sole arbitrator, to arbitrate upon the disputes between the parties. The respondents shall be at liberty to raise all objections as may be available to them under the

laws. 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.)

TR/