

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

AP/131/2025

PRASENJIT DAS
VS
MUKESH JHA

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 13th August, 2025.

Appearance:

Ms. Shrayashee Das, Adv.

Mr. Tridibesh Dasgupta, Adv.

...for the petitioner

The Court: This Court had directed the matter to be registered as a non-commercial matter and accordingly be transferred to the non-commercial division. The department has carried out the necessary conversion and the matter has been re-numbered as AP/131/2025. The Court had also directed that upon such registration in the non-commercial division complete, a notice shall be issued to the respondent with the newly registered number, indicating that the matter will appear in the list on August 12, 2025 in the non-commercial division. The matter was listed on August 12, 2025 in the non-commercial division and the matter has been running in the list. Due to paucity of time the matter could not be taken up on August 12, 2025 and the matter has been called today.

The report of the learned Registrar, Original Side clearly indicates that the copy of the order and a notice was served by special messenger upon one Anita Jha who accepted the service on behalf of Mukesh Jha.

Under such circumstances, this Court can proceed in the absence of the respondent as the respondent did not ever appear before this Court despite service on two earlier occasions. All the affidavits of service are on record.

This is an application for appointment of a learned Arbitrator in terms of clause 16 of the Agreement for Sale dated January 31, 2022. The contention of the petitioner is that although the petitioner deposited a sum of Rs. 7 lakh as booking amount for a flat measuring around 600 sq. ft. situated on the 1st Floor of premises no. 73U/1C, Narkeldanga Main Road, P.S.- Phoolbagan, Kolkata -700054, the respondent failed to deliver possession of the said flat and retained the booking money. The agreed consideration was Rs.16,80,000/-.

By a letter dated October 22, 2024, the petitioner made a demand. The petitioner terminated the contract alleging complete breach and violation of the terms and condition of the agreement. The petitioner asked for refund of the advance amount paid for the booking and additional amount for damages suffered due to non-performance of the agreement. Referring to clause 16 of the agreement, the petitioner through his learned Advocate nominated an Arbitrator. The said notice was delivered to the respondent. The delivery report has been annexed to this application.

Under such circumstances, in view of the arbitration clause and in view of the fact that a notice invoking arbitration had been issued, the

application is allowed. Mr. Ishaan Saha, learned Advocate, Bar Library Club, is appointed as 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.

The respondent is at liberty to raise all available objections before the learned Arbitrator which would include amongst others the question of arbitrability, admissibility, limitation etc.

AP/131/2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)