

ORDER SHEET

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

AP/111/2025

DR. PRABIR MUKHERJEE
VS
SANJIT BISWAS

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 25th August, 2025.

Appearance:

Mr. Satyam Mukherjee, Adv.

Mr. Saibal Rakshit, Adv.

...for the Petitioner

Mr. Ovik Sengupta, Adv.

. . . for the respondent.

The Court: This is an application for appointment of an Arbitrator in terms of Article 18 of the agreement for sale dated March 12, 2025.

The dispute arises out of non-registration of the property by the respondent in favour of the petitioner, despite the petitioner having paid a substantial amount as per the agreement for sale. The arbitration clause provides that all disputes in connection with the interpretation or implementation or purported termination of the deed, shall be settled amicably between the parties and if such disputes are not settled amicably, they shall be referred to a sole Arbitrator to be appointed by the parties mutually.

Reliance has been placed on the covenants and clauses of the said agreement in support of the contention that the dispute is alive. As per the schedule for payment contained in the said agreement, it appears that the payment for the balance sum would start from March 2026. The

seller was to register the property proportionate to the area, in the name of the buyer. Thus, it is submitted that the time for performance of the agreement had not expired. Under such circumstances, neither the disputes nor the claims are barred by limitation. The allegation is that the agreement for sale had not been registered.

Learned Advocate for the respondent submits that the agreement was never acted upon. The petitioner had already taken the property on lease and both the parties recognized the deed of lease and the said deed of lease superseded the agreement for sale. The agreement for sale is not in existence. Learned Advocate further submits that the claims are inadmissible and/or barred by limitation.

Having considered the rival contentions, this Court is of the view that the referral court is only required to satisfy itself about the *prima facie* existence of an arbitration clause. The arbitration clause is not in dispute. The invocation is also not in dispute. However, the issue as to whether the subsequent deed of lease would amount to novation of the agreement for sale, must be decided by the learned Arbitrator. All objections raised by the learned Advocate for the respondent, including the points of arbitrability, admissibility, limitation etc. are left open, for being raised before the learned Arbitrator and the learned Arbitrator shall decide the same in accordance with law. The issue as to whether the agreement can be admitted in evidence is also a matter to be taken at the appropriate stage before the learned Arbitrator.

Under such circumstances, the application is allowed by appointing Mr. Pratip Mukherjee, learned Advocate and a member of the

Bar Association (M. No.8100950043) as the 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.

AP 111 of 2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)