

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP/755/2022
JOYRATH PROJECTS PVT.LTD.
VS
SIMPLEX INFRASTRUCTURES LTD.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 26th June 2025.

Appearance:-

Mr. Chayan Gupta, Advocate
Mr. Sayan Ganguly, Advocate
Mr. Arnab Sardar, Advocate
... for petitioner.

Mr. Debraj Sahoo, Advocate
Mr. Sitikantha Mitra, Advocate
... for respondent.

1. This is an application for appointment of an arbitrator in respect of seven work orders namely Work Order No. 29802980/141001000005 dated 1st January 2015, Work Order No. WO29802980/160901000001 dated 1st September 2016, Work Order No. WO29802980/141001000005 dated 1st January 2017, Work Order No. WO29802980/150501000001 dated 1st February 2017, Work Order No. WO29802980/160801000003 dated 1st March 2017, Work Order No. WO29802980/150101000008 dated 1st April 2017 and Work Order No. WO29802980/160601000007 dated 1st June 2017. The petitioner submits that each of these work orders was issued in respect of one project for Engineering, Procurement and Construction (EPC) for Bulk Berth 3 at Dharma Port, Orissa. All the work orders contain similar arbitration clauses and the venue of arbitration is Kolkata.

The petitioner contends that payments were made against the work orders in a lumpsum. The petitioner relies on the tax invoices and the bank statements in support of such contention.

2. Mr. Sahoo submits that the work orders are separate and distinct. Invocation is defective. Separate invocation in respect of each of the arbitration clauses in the said work orders should have been made. He denies the allegation of the petitioner of non-payment and submits that all the claims were settled and there was no surviving arbitrable dispute.
3. The Court has considered the work orders and it is found that the orders arise out of the same project at Dharma port, Orissa. The payments and the invoices also indicate that composite invoices may have been raised and payments may have been released in a lumpsum against the claims in respect of the work orders. With regard to the issues raised by Mr. Sahoo, this Court is of the view that whether there is a surviving arbitrable dispute or not and whether the claims arising out of the work orders are incorrect, are matters of evidence. Under such circumstances, keeping all the objections of Mr. Sahoo open, and to be decided by the learned arbitrator, a composite reference is made by this Court, only upon holding that as the work orders and the disputes arose out of the same project at Dharma Port, Orissa, a composite reference would be convenient. It will avoid multiplicity of proceedings and save costs.
4. Under such circumstances, this Court allows the application and refers the disputes to a sole arbitrator. This Court appoints Mr. Debdut

Mukherjee, Advocate (Mobile: 8240441229) as the learned arbitrator, to arbitrate upon the disputes between the parties. This appointment is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996. The learned arbitrator shall fix his remuneration as per the Schedule of the Act.

5. The application is disposed of.

(SHAMPA SARKAR, J.)

S.Kumar / R.D Barua