

OCD 6

ORDER SHEET
AP-COM/16/2026
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

KOLKATA HOUSING NOW PSC KOLKATA HOUSING
VS
DRISTI ABASAN PRIVATE LIMITED AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 27th January, 2026.

Appearance:
Ms. Priya Ghosal, Adv.
Mr. Swadesh Misra, Adv.
Ms. Soma Ghosh, Adv.
. . .for the petitioner.

Mr. Altamash Alim, Adv.
Mr. S.S. Bhutoria, Adv.
. . .for the respondents.

The Court:

1. Leave is granted to the respondent to file Vakalatnama within a week from date.
2. This is an application for appointment of an Arbitrator for adjudication of disputes which arose between the parties out of a Memorandum of Understanding (MoU), for sale of residential units in the upcoming project named and styled as "Oxygen City" at Digha. The said MoU was executed on 11th March, 2022. The respondent no.1 is the developer and had entered into the MoU with the petitioner as the facilitator. The

respondent nos. 2 and 3 are the directors of the developer/respondent no.1. Under the said MoU 136 numbers of residential units were to be constructed. It is alleged by the petitioner that 89 residential units would be allotted to the petitioner as the facilitator, for sale to outsiders.

3. The developer was to get 30% payment from the homebuyers as per the schedule of payment in the agreement for sale, and the developer was to pay 2% + 1% as commission of the total consideration value of the booking, to the facilitator. The mode and method of payment of the commission was stated in the MoU.
4. It is contended by the petitioner that the MoU provided for increment of the market value. The petitioner's specific case is that a sum of Rs. 3 lakhs was received from the developer as adjustable money for commencement of the work. The adjustable money (advance) was to be deducted from the commission payable to the facilitator on the initial booking of 15 flats. The transaction was to be completed within 18 months from signing of the MoU and after expiry of 18 months, the facilitator would lose its status as a sole selling agent of the respondent no.1. It is alleged that the payment of the commission was not made, although 77 units/flats were sold out of 89 flats. The dispute arose due to non-payment of the commission. The MoU contains an arbitration clause for settlement of disputes between the parties. It further provides that, the bench of arbitration shall be at Kolkata.

5. Mr. Alim, learned Advocate for the respondents submits that the claim is disputed. More than what was payable to the petitioner had been paid. Thus, the claim is not admitted and need not be adjudicated by the learned Arbitrator. It is further submitted that the facilitator failed to comply with the terms and conditions of the MoU. He further submits that the MoU had expired.
6. The petitioner invoked arbitration by a letter dated September 22, 2025. The respondent replied to the same and denied all the allegations. The petitioner came to know that the respondents were negotiating with buyers from outside, without involving the facilitator.
7. Under such circumstances, it is evident that there is an existing dispute. However, whether the said claims of the petitioner are admissible or not and whether there are any arbitrable disputes, are matters which shall be decided by the learned Arbitrator. Thus, all questions, with regard to jurisdiction, arbitrability, admissibility of the claim, limitation etc. are kept open, to be decided by the learned Arbitrator, if raised.
8. Under such circumstances, this Court allows the application by appointing a sole Arbitrator to adjudicate the disputes between the parties.
9. Accordingly, Mr. Arik Banerjee, learned Advocate, [Mobile No. 9836710962] is appointed as the 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.

10. The learned Arbitrator shall fix his remuneration as per the Schedule of the Act.
11. The application is, accordingly, disposed of.

(SHAMPA SARKAR, J.)