

ORDER SHEET

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

AP/9/2024

PRASANTA MAJUMDER
VS
APARNA BHATTACHARJEE AND ORS.

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 7th April, 2026.

Appearance

Mr. Anirban Roy, Adv.
Mr. Ashok Kumar Roy, Adv.
Mr. Debjit Basu, Adv.
...for the petitioner

Mr. Munshi Ashiq Elahi, Adv.
Mr. Rohit Mahato, Adv.
...for the respondents

1. The Court: The present application has been filed by the Petitioner under Section 11 of the Arbitration and Conciliation Act, 1996, seeking appointment of a Sole Arbitrator to adjudicate the disputes which have arisen between the parties.
2. Learned Counsel for the Petitioner submits that the Petitioner entered into a Development Agreement dated 23.06.2013 with Respondent No. 1 and a subsequent Development Agreement dated 23.06.2014 with Respondent Nos. 2 and 3. It is contended that the said agreements could not be effectively implemented on account of the failure of the Respondents to hand over vacant and peaceful physical possession of the subject property, as contemplated under Clause 1 of the Development Agreement dated 23.06.2013.

3. It is further submitted that, in view of the disputes arising between the parties, the Petitioner invoked the arbitration clause by issuing a notice under Section 21 of the Act dated 14.08.2023. However, no effective steps were taken by the Respondents for constitution of the Arbitral Tribunal, thereby necessitating the present application.
4. Learned Counsel appearing for the Respondents does not dispute the execution of the Development Agreements dated 23.06.2013 and 23.06.2014, nor the existence of an arbitration clause contained in Clause 19 of the agreement dated 23.06.2013. However, it is contended that the Petitioner failed to take steps in furtherance of the development and did not discharge its contractual obligations, including failure to construct the building within the stipulated period of 24 months and failure to furnish a copy of the sanctioned building plan.
5. This Court has considered the rival submissions. At the stage of Section 11 of the Act, the scope of examination is limited to a prima facie determination of the existence of a valid arbitration agreement and whether disputes have arisen between the parties. The merits of the rival claims and counterclaims are not required to be adjudicated at this stage.
6. In the present case, the existence of the Development Agreements and the arbitration clause contained therein is not in dispute. It is also evident that disputes have arisen between the parties in relation to performance of their respective obligations under the said agreements. The invocation of arbitration by the Petitioner vide notice dated

14.08.2023 has also not been effectively acted upon by the Respondents.

7. In view of the aforesaid, this Court is satisfied that a case for appointment of an Arbitrator is made out.
8. Accordingly, with the consent of the parties, this Court appoints Mr. Jayanta Sengupta, Advocate (Mob: 9231500518), as the Sole Arbitrator to adjudicate the disputes between the parties arising out of the Development Agreements dated 23.06.2013 and 23.06.2014.
9. The learned Sole Arbitrator shall be entitled to fix his remuneration in accordance with the Fourth Schedule to the Arbitration and Conciliation Act, 1996, unless otherwise agreed by the parties.
10. The learned Arbitrator shall, prior to entering upon the reference, make the necessary disclosure in terms of Section 12 of the Act.
11. All questions, including those relating to limitation, maintainability of claims, jurisdiction, and merits, are expressly kept open to be decided by the learned Arbitral Tribunal.
12. The Petitioner shall communicate a copy of this order to the learned Sole Arbitrator forthwith for necessary action.
13. With the aforesaid directions, the present application stands disposed of.

(GAURANG KANTH, J.)