

OD-22

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Original Civil Jurisdiction
ORIGINAL SIDE

AP/72/2026

M/S. M.K.S. CONSTRUCTION AND ORS.
VS
SRI BIPLAB KUMAR CHOWDHURY AND ORS.

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 5th May, 2026.

Appearance:

Mr. Arka Chandra Roy, Adv.

Mr. Amartya Basu, Adv.

...for the petitioners

Mr. A. Halder, Adv.

...for the respondents

The Court: The present petition has been filed by the petitioners under Section 11 of the Arbitration and Conciliation Act, 1996, seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties in relation to the Development Agreement dated 7th February, 2018 and registered on 8th February, 2018.

Learned Counsel for the petitioners submits that the said Development Agreement was entered into between the parties, wherein the petitioners acted as the developer and the respondents, being the owners of the Municipal Holding No. 54(5C), Kalabagan in Mahajati Block-II, P.S.-Airport, Kolkata-700 051, under Ward No.-15 of North Dum Dum Municipality, District-North 24 Parganas, agreed to the development of the said premises and construction of a (G+3) storied building.

Learned Counsel for the Petitioners submits that after entering into the agreement, the petitioners paid a sum of Rs.10,00,000/- to the respondents as a refundable deposit and further incurred an expense of Rs.13,83,000/- along with Rs.20,000/- towards planning charges.

Learned Counsel for the petitioners submits that the building plan was never sanctioned and, therefore, the petitioners were unable to proceed with the development of the property. It is further stated that in terms of Clause 5.3 of the development agreement in case of failure to complete the construction within the stipulated time the respondents were entitled to rescind the agreement upon re-payment of the cost as well as consideration money and expenses incurred by the petitioners.

It is submitted that vide letter dated 19.02.2025, the respondents cancelled the development agreement and claimed an amount of Rs.13,14,000/- towards alleged shifting charges @ Rs.18,000/- per month from January 2019 to January 2025. It is further submitted that the respondents purportedly adjusted and refunded an amount of Rs.9,80,000/- and have claimed the balance of Rs.3,34,000/- from the petitioners.

Learned Counsel for the petitioners submits that the petitioners invoked the arbitration clause by issuing a notice under Section 21 dated 28th November, 2025. Despite receipt of the said notice, the respondents failed to respond.

Learned Counsel for the respondents states that the respondents have claims against the petitioners. It is further submitted that the respondents do not dispute the existence of the arbitration clause

contained in the development agreement. It is also contended that the parties are in agreement to the appointment of a learned Sole Arbitrator to adjudicate the disputes between the parties.

In view of the aforesaid, this Court is satisfied that a case for appointment of an Arbitrator has been made out.

Accordingly, with the consent of the parties, this Court appoints Mr. Satyam Mukherjee, Advocate (Mob: 8017382322), as the Sole Arbitrator to adjudicate the disputes between the parties.

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.

The learned Arbitrator shall, prior to entering upon the reference, make the necessary disclosure in terms of Section 12 of the Act.

All questions, including those relating to limitation, maintainability of claims, jurisdiction, and merits, are expressly kept open to be decided by the learned Sole Arbitrator.

The Petitioners shall communicate a copy of this order to the learned Sole Arbitrator forthwith for necessary action.

With the aforesaid directions, the present petition stands disposed of.

(GAURANG KANTH, J.)