

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/337/2026

UDAY RANJAN PAUL
VS
AIRPLAZA RETAIL HOLDINGS PVT.LTD.

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 8th June, 2026.

Appearance

Mr. Aniruddha Chatterjee, Sr. Adv.
Mr. Partha Pratim Roy, Adv.
Mr. Rittick Chowdhury, Adv.
Mr. Debaki Nandan Maiti, Adv.
Mr. Asumdipta Santra, Adv.
Miss. Champa Paul, Adv.
...for the petitioner

Mr. Uttiyo Mallick, Adv.
...for the respondent

The Court:- The present petition has been filed by the petitioner under Section 11 (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a learned Sole Arbitrator to adjudicate the disputes between the parties arising out of the lease deed dated 20th July, 2018.

Learned Counsel appearing for the petitioner submits that the petitioner is the absolute owner of premises known as "Jack Paul Building".

It is contended that a long term Lease Deed dated 20.07.2018 was entered into between the parties, pursuant to which the respondent came

into possession of the area measuring 18464 Sq. Ft. on the fourth floor of the said premises. It is the case of the petitioner that the disputes and differences arose between the parties on account of non-payment of rent by the respondent.

In view thereof, the petitioner instituted the suit No. 17 of 2023 before the learned Civil Judge (Senior Division) 2nd Court, Paschim Medinipur, seeking appropriate reliefs against the respondent. Learned Counsel for the petitioner submits that during the pendency of the said suit, the respondent filed an application under Section 8 of the Arbitration and Conciliation Act 1996, seeking reference of the disputes to arbitration.

The learned Civil Court, vide order dated 08.11.2024 allowed the said application and dismissed the suit with liberty to the parties to approach the appropriate forum in terms of the arbitration agreement.

It is further contended by the learned Counsel for the petitioner that the said order was challenged in revisional application before this Court being C.O. No. 30 of 2025. This Court vide order dated 04.02.2026 dismissed the revisional application. Thereafter, the lease in respect of the said property was determined by the petitioner by a notice dated 28.02.2026 issued under Section 106 of the Transfer of Property Act, 1882.

Learned Counsel for the petitioner submits that thereafter the petitioner invoked the arbitration agreement contained in Clause 19 of the lease deed dated 20.07.2018 by issuing a notice under Section 21 of the Arbitration and Conciliation Act, dated 31.03.2026.

The respondent vide reply dated 16.04.2024 admitted the existence of the lease deed and the arbitration agreement though he did not consent to the name of the arbitrator proposed by the petitioner. In the absence of any consensus between the parties, the petitioner has filed the present petition.

Learned Counsel for the respondent states that the present petition is not maintainable since the petitioner had issued the notice under Section 21 belatedly and that the claims sought to be referred to arbitration are barred by limitation.

This Court has considered the submissions advanced by the Counsel for the parties and has perused the materials placed on record.

Prime facie, there exists a valid arbitration agreement between the parties in the form of Clause 19 of the lease deed dated 20.07.2018. Disputes have arisen in relation to the said lease deed. It is further noted that under Clause 19 of the lease deed, the parties have agreed that the venue of arbitration shall be at Gurugram, Haryana, whereas the Courts at Medinipur shall have exclusive jurisdiction.

Since the parties have consciously vested exclusive jurisdiction upon the Courts at Medinipur, this Court is satisfied that the present petition is maintainable before this Court.

From the records it is further evident that the petitioner issued a notice dated 31.03.2026 under Section 21 of the Arbitration and Conciliation Act in terms of the lease deed between the parties. The only objection raised by the respondent is that the Section 21 notice has been

issued beyond the period of limitation and therefore, the present petition is not maintainable.

In ***SBI General Insurance Co. Ltd. v. Krish Spinning*** reported as **[2024 SCC OnLine SC 1754]**, the Hon'ble Supreme Court has authoritatively delineated the scope of jurisdiction exercisable by the referral court under Section 11 of the Arbitration and Conciliation Act, 1996. It has been held that such jurisdiction is strictly confined to two inquiries: first, a prima facie satisfaction as to the existence of a valid and subsisting arbitration agreement; and second, an examination of whether the petition under Section 11 has itself been instituted within the period of three years prescribed under Article 137 of the Limitation Act, 1963, which period commences from the date of failure or refusal to comply with the notice issued under Section 21 of the Act. The erstwhile practice of the referral court examining whether the underlying claims are *ex facie* dead or time barred at the Section 11 stage stands expressly disapproved and overruled by the Hon'ble Supreme Court in ***Krish Spinning*** (supra). It is now well-settled that the question of limitation of the underlying substantive claims falls exclusively within the domain and competence of the Arbitral Tribunal. Any intricate or evidentiary enquiry into such limitation at the threshold stage of Section 11 is, accordingly, rendered impermissible.

In view thereof, it is noted that the existence of the arbitration clause in the lease deed dated 20.07.2018 is admitted by both the parties and the same is not in dispute. The arbitration was invoked vide notice dated 31.03.2026 and the present petition under Section 11 of the Act has been

filed well within the limitation period. In view of the aforesaid, this Court is of the considered view that the present dispute is a fit case to be referred to arbitration.

Accordingly, Mr. Shatadru Chakraborty, Learned Senior Advocate (Mob.9810209319) is appointed as a learned Sole Arbitrator to adjudicate the disputes between the parties.

The appointment of the learned sole Arbitrator shall be subject to compliance with Section 12 of the Arbitration and Conciliation Act, 1996.

The learned sole Arbitrator shall be entitled to fix the remuneration in accordance with the Fourth Schedule of the Act.

A copy of this order shall be communicated by the petitioner to the learned sole Arbitrator for necessary action.

All questions relating to arbitrability of the disputes, admissibility of the claims, limitation and other issues are kept open to be urged before the learned sole Arbitrator.

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

(GAURANG KANTH, J.)