

Rohit Construction Vs. Executive Engineer,

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Court : Kolkata

Decided On : Mar-07-2014

Judge : Sanjib Banerjee

Appellant : Rohit Construction

Respondent : Executive Engineer,

Judgement :

AP No.91 of 2014 IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction ORIGINAL SIDE ROHIT CONSTRUCTION Versus EXECUTIVE ENGINEER, ASANSOL DURGAPUR DEVELOPMENT AUTHORITY BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date : March 7, 2014.

Appearance: Mr.Bijon Majumdar, Adv.Mr.Sayantana Bose, Adv.The Court : The respondent does not dispute the arbitration agreement or the receipt of the letter of invocation by the petitioner.

The respondent says that the substantive claim may be barred by limitation.

According to the respondent, the agreement was terminated on April 11, 2008, following which the petitioner made some claims. Most of the claims were rejected, including refund of earnest deposit, but a payment was made by the respondent refunding the security deposit.

Such payment was made in August, 2011.

The petitioner invoked the arbitration agreement on June 14, 2012.

The present request under Section 11 of the Arbitration and Conciliation Act, 1996 has been carried to the Chief Justice of this Court or his designate early this year.

Prima facie, the substantive claim of the petitioner does not appear to be barred by the laws of limitation since the arbitration clause was invoked 2 within a year or so of the last payment being received by the petitioner from the respondent.

The present request has been made within time since a period of three years had not elapsed between the receipt of the letter of invocation by the respondent or the appointing authority and the making of this request before the Chief Justice or his designate.

However, the issue as to whether the substantive claim of the petitioner is barred by the laws of limitation need not be conclusively answered in couRs.of the present proceedings since disputed questions of fact arise.

Such issue is left to be decided by the arbitrator.

Since the parties have failed to secure the constitution of the arbitral tribunal, Mr.Amitava Ghosh, Advocate, is appointed as arbitrator to adjudicate upon the disputes between the parties covered by the arbitration agreement.

The petitioner agrees to file the statement of claim before the arbitrator within three weeks from date and the respondent agrees to file the counter-statement within three weeks thereafter.

The parties reckon that the reference should not last any more than four months from the date of completion of the pleadings.

The arbitrator will be paid a consolidated remuneration of Rs.4 lakh to be shared by the parties in equal measure.

AP No.91 of 2014 is allowed as above without any order as to costs.

Urgent certified website copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SANJIB BANERJEE, J.) sg.

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