

IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL DIVISION

ORIGINAL SIDE

AP/676/2022

ANJAN GOSWAMI
VERSUS
AMIT GUHA ROY

BEFORE :

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 4th March, 2025.

Appearance:

Mr. Ajay Debnath, Adv.
Mr. Sujit Debnath, Adv.
for the petitioner.

Mr. Shaunak Ghosh, Adv.
Mr. Prasanta Kr. Bagchi, Adv.
Ms. Lata Saha, Adv.
. . . . for the respondent.

The Court : Two objections have been raised by Mr. Ghosh, first that the matter should be registered in the Commercial Division and secondly the dispute resolution clause provides for an attempt to amicably settle the matter before the dispute is referred to arbitration.

On the first objection, learned Advocate for the petitioner will come back with proper reply. On the second objection, this Court holds that series of communications and exchange of letters between the parties clearly indicate that the dispute was not resolved when the parties communicated with each other over the issue. Any further attempt at an amicable settlement would be an exercise in futility.

Reference is made to the decision of ***Visa International Ltd. v. Continental Resources (USA) Ltd.***, reported in **(2009) 2 SCC 55**. The relevant portion is quoted below:-

“38. It was contended that the pre-condition for amicable settlement of the dispute between the parties has not been exhausted and therefore the application seeking appointment of arbitrator is premature. From the correspondence exchanged between the parties at pp. 54-77 of the paper book, it is clear that there was no scope for amicable settlement, for both the parties have taken rigid stand making allegations against each other. In this regard a reference may be made to the letter dated 15-9-2006 from the respondent herein in which it is inter alia stated “... since February 2005 after the execution of the agreements, various meetings/discussions have taken place between both the parties for furtherance of the objective and purpose with which the agreement and the MoU were signed between the parties. Several correspondences have been made by CRL to VISA to help and support its endeavour for achieving the goal for which the abovementioned agreements were executed”. In the same letter it is alleged that in spite of repeated requests the petitioner has not provided any funding schedules for their portion of equity along with supporting documents to help in convincing OMC of financial capabilities of the parties and ultimately to obtain financial closure of the project. The exchange of letters between the parties undoubtedly discloses that attempts were made for an amicable settlement but without any result leaving no option but to invoke the arbitration clause.”

Thus, no purpose will be served in relegating the parties to further rounds of discussions and meetings.

Let this matter appear in the next week.

(SHAMPA SARKAR, J.)