

OCD-22

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/51/2026

REHMAN VALJEE
VS
SIMPLEX INFRASTRUCTURE LIMITED

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 8th July, 2026.

Appearance:

Mr. Aurin Chakraborty, Adv.
Mr. Dipankar Das, Adv.
...for the petitioner

Mr. Abhidipto Tarafder, Adv.
Mr. Snehashis Sen, Adv.
Mr. Abhishek Banerjee, Adv.
Ms. Mihika Roy, Adv.
...for the respondent

The Court: The petitioner has preferred the present petition 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 work order dated 28.06.2017.

Learned Counsel for the petitioner submits that disputes have arisen between the parties in relation to the said work order. It is the case of the petitioner that pursuant to the work order, a crawler crane was hired by the respondent. The respondent was making payments from time to time for the crawler crane. It is further contended that the respondent subsequently stopped making payments as a result of which an outstanding amount of

Rs.13,24,422/- remain due and payable on part of the respondent. Learned Counsel for the petitioner states that the petitioner had issued various emails demanding payment of the outstanding amount. Learned Counsel for the petitioner further states that the petitioner had issued a notice dated 11.07.2024 demanding payment of the outstanding amount. It is the case of the petitioner that the said legal notice was issued under Section 21 of the Arbitration and Conciliation Act, 1996 invoking the arbitration clause contained in the work order.

Learned Counsel for the respondent has drawn the attention of this Court to the legal notice issued by the petitioner dated 11.07.2024 to raise the ground of maintainability of the present petition. Learned counsel for the respondent alleges that the said legal notice cannot be construed as a valid notice under Section 21 of the said Act. It is contended that the notice is merely a demand letter issued by the petitioner seeking payment of the outstanding amount allegedly due from the respondent and does not amount to invocation of the arbitration agreement.

This Court has perused the materials placed on record and has heard the submissions advanced by the learned counsel appearing for the respective parties at length.

It is well settled in law that a notice invoking arbitration under Section 21 of the Act must be clear, unequivocal, and unambiguous, so as to leave no manner of doubt in the mind of the Court that the claimant intends to invoke the arbitration clause contained in the agreement between the parties and to refer the disputes for adjudication before an Arbitral Tribunal. The said notice must, on a plain reading, disclose the existence of disputes

between the parties and a clear intention on the part of the claimant to have such disputes resolved through arbitration. A mere reference to a contractual claim, without more, would not suffice to constitute a valid invocation under Section 21 of the Act.

In the present case, upon a careful perusal and examination of the notice dated 11.07.2024, in light of the aforesaid settled legal position, this Court finds that the said notice does not satisfy the requirements of a valid notice under Section 21 of the Act. A bare perusal of the notice reveals that it is confined to a demand for payment of the outstanding amount stated to be due and payable by the respondent. Nowhere in the said notice does the petitioner refer to the existence of any dispute between the parties, nor does the petitioner express, expressly or by necessary implication, any intention to invoke the arbitration clause or to seek reference of the disputes to arbitration. In the absence of such unequivocal manifestation of intent, the said notice cannot be treated as one issued in terms of Section 21 of the Act, and, at best, amounts to a mere demand notice or a notice of claim.

It is trite that the invocation of arbitration is a jurisdictional precondition for maintainability of an application under Section 11(6) of the Act, and in the absence of a valid notice satisfying the requirements of Section 21, no cause of action can be said to have arisen for the petitioner to approach this Court seeking appointment of an Arbitrator.

For the foregoing reasons, this Court is of the considered view that the petitioner has failed to invoke the arbitration clause by serving a valid notice under Section 21 of the Act. Consequently, the present petition under

Section 11(6) of the Act, seeking appointment of an Arbitrator, is not maintainable and is, accordingly, dismissed.

It is, however, made clear that the dismissal of the present petition shall not preclude the petitioner from issuing a fresh and valid notice under Section 21 of the Act, in accordance with law, should the petitioner be so advised.

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

(GAURANG KANTH, J.)