OC-2 & 3

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/741/2026

SRI GOURI SHANKER CHOUBEY
VS
M/S. DURGAPUR CORPORATION PRIVATE LIMITED

And

AP-COM/710/2026

M/S. DURGAPUR CORPORATION PRIVATE LIMITED
VS
SRI GOURI SHANKER CHOUBEY

BEFORE:
The Hon'ble JUSTICE GAURANG KANTH
Date : 5th October, 2026.

Appearance:
Mr. K. R. Thaker, Sr. Adv.
Mr. TanishGhaneriwala, Adv.
Mr. Ramendu Agarwal, Adv.
..for Sri Gouri Shankar Choubey

Mr. Suddhasatva Banerjee, Adv.
Mr. Tanay Agarwal, Adv.
Mr. ChitreshSaraogi, Adv.
..for M/S. Durgapur Corporation Private Limited

The Court: These two applications under Sections 29A and 29A(6) arise out of the same arbitral reference are being taken up together.

The disputes arise out of the Joint Venture Agreement dated 29th May, 2019. This Court vide order dated 19th September, 2024, passed in AP-COM/694/2024 which was heard along with AP-COM No. 693 of 2024, appointed Hon'ble Justice Indira Banerjee (Retired), Former Judge of the Hon'ble Supreme Court as the Sole Arbitrator. The pleadings were completed in July and August, 2025. On 19th September, 2025, the learned Arbitrator heard the respondent's recalling application and reserved the same for orders, directing the parties to file their written submissions.

No sitting has taken place thereafter and the said order has remained unpronounced. The statutory period under Section 29A(1)has expired. The respondent's consent for grant of extension communicated on 10th August, 2026 cannot constitute consent under Section 29A(3), there being no consent on behalf of the respondent.

After filing of the present petition, the respondent vide letter dated 11th September, 2026, to the learned Arbitrator, raised various allegations against the learned Arbitrator and challenged the mandate of the Arbitral Tribunal. In response, the learned Arbitrator vide letter dated 13th September, 2026 recused herself from the office of the arbitrator. The said act of the respondent in the reference is deprecated.

In view of the recusal of the learned Arbitrator by letter dated 13.09.2026, her mandate also stands terminated under Section 15(1)(a) of the

Act, and a substitute arbitrator is required to be appointed under Section 15(2) read with Section 29A(6).

Both parties seek continuation of the reference. Having regard to the recusal of the learned Arbitrator, and to the fact that there has been no progress since September, 2025 and the reference is yet to enter the stage of evidence, this Court considers it appropriate, in the interest of expeditious conclusion of the reference, to extend the mandate and appoint a substitute arbitrator.

Accordingly, Hon'ble Justice Amitava Roy (Retired), Former Judge of the Hon'ble Supreme Court be substituted as the Sole Arbitrator in place and stead of Justice Indira Banerjee (Retired), Former Judge of the Hon'ble Supreme Court and the mandate is extended for a period of six months from today.

The learned substitute Arbitrator shall be deemed to be in continuation of the arbitral proceedings. All pleadings, applications, documents and other things on record shall continue to form part of the Arbitral Tribunal. The matter shall proceed from the stage at which it stood on 19th September, 2025. The application on which orders were reserved on that date shall, however, be heard afresh. The existing interim orders and direction shall continue until varied by the learned Tribunal.

The learned Sole Arbitrator shall enter upon the reference after making disclosure with Section 12(1) of the Act and subject to the provisions of Section 12(5) thereof.

The learned sole Arbitrator shall be entitled to fix the remuneration in accordance with the Fourth Schedule of the Act or as may be mutually agreed between the parties.

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

It is clarified that all questions on merit and the rival allegations regarding delay are left open to be adjudicated by the learned Arbitrator in accordance with law.

With the aforesaid directions, the present applications stand disposed of.

(GAURANG KANTH, J.)

bp.