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S.L. No. 17/24

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATAI. A. No. 128 of 2024/EZ
In

M. A. No. 27/2024/EZ

(Arising out of ORIGINAL APPLICATION NO. 136/2015/EZ)



In The Matter of:

An application Under Section 19(4)(a) read with Under Section 18 (1) of the National Green Tribunal Act, 2010 for addition of M/s ARK Nirman Private Limited, a private limited company registered under the Companies Act, having site office at Manabari, Odlabari, P.S- Mal, District: Jalpaiguri and registered office at Manabari, Odlabari, P.S- Mal, District: Jalpaiguri as a party respondent in connection with the instant original application;

AND

In The Matter of:

M/s ARK Nirman Private Limited

..... Applicant.

-Versus-

Subhas Datta & Ors.

.....Respondents



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11 DEC 2024

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| | | | |
|----|--|-------|----|
| | Jalpaiguri to the proprietor of ARK Nirman Private Limited is annexed herewith | | |
| 4. | Photocopy of the Certificate of Registration is annexed herewith | "P-3" | 14 |
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Filed by

Krishnendu Bera

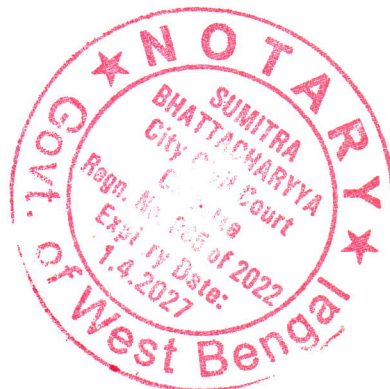
Krishnendu Bera

Advocate

For The Applicant

Email: 9804470595

(M):krishnendubera87@gmail.com



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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
I. A. No. of 2024/EZ
In
M. A. No. 27/2024/EZ
(Arising out of ORIGINAL APPLICATION NO. 136/2015/EZ)

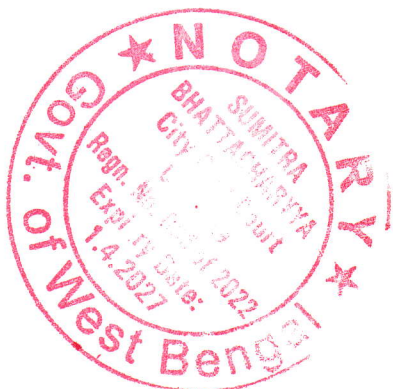
In The Matter of:

An application Under Section 19(4)(a) read with Under Section 18 (1) of the National Green Tribunal Act, 2010 for addition of M/s ARK Nirman Private Limited, a private limited company registered under the Companies Act, having its registered and site office at Manabari, Odlabari, P.S- Mal, District: Jalpaiguri, as a party respondent in connection with the instant original application;

AND

In The Matter of:

M/s ARK Nirman Private Limited, a private limited company registered under the Companies Act, having site office at Manabari, Odlabari, P.S- Mal, District: Jalpaiguri and registered office at Manabari, Odlabari, P.S- Mal, District: Jalpaiguri and represented by one of its Director namely Rajen Sharma, S/o Late Chiranjibi Sharma,



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residing at Nividita Road, P.O & P.S-
Pradhannagar, SMC, District: Darjeeling,
Pin: 734003.

E-mail: krishnendubera87@gmail.com,
h.upadhaya@gmail.com

..... Applicant.

-Versus-

1. Sri Subhas Datta, S/o Late Banerwar
Datta, residing at 25/1, Guitendal Lane, P.O
+ P.S + District- Howrah, Pin: 711101, West
Bengal.

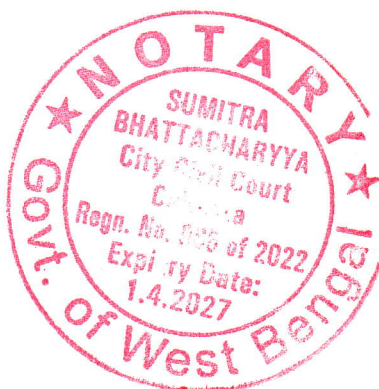
Email: subhasdatta@rediffmail.com

.... Respondent No. 1/ Applicant in O. A

2. The State of West Bengal service through
the Additional Chief Secretary, Department
of Environment, Government of West
Bengal having office at "Pranisampad
Bhaban", 5th Floor, LB-II, Sector- III,
Bidhannagar, Kolkata- 700106.

E-mail: psecy.env-wb@gov.in

3. The West Bengal Pollution Control Board
represented through its Member Secretary,
having office at 10A, Block-LA, Sector-III,
Salt Lake City, Kolkata: 700106.



X

Email: :net.wbpcb-wb@bangla.gov.in

4. The District Magistrate & Collector, Jalpaiguri
having office at Collectorate Building,
Collectorate Avenue, Jalpaiguri, Pin:
735101.

Email: dmjalpaiguri2011@gmail.com

.....Respondents

To,

The Hon'ble Chairperson and His Companion Member of the said Hon'ble Tribunal.

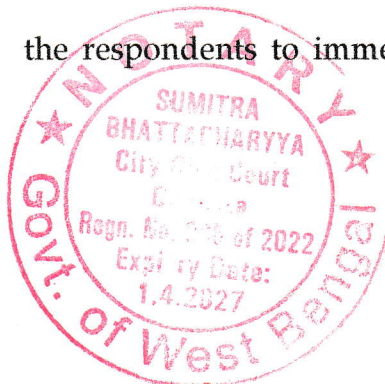
The Humble petition on behalf of the
applicant as above named most respectfully

SHEWETH:

1. That the applicant has been authorized by the other directors to file and affirm this I. A. Application.

Copy of the Authorization as above referred is annexed herewith and marked with the letter 'P-1'.

2. That the instant M.A Application is presently pending for adjudication before this Hon'ble Tribunal.
3. That the present M. A. has been filed by the applicant seeking a direction to the respondents to immediately comply with the directions passed by this



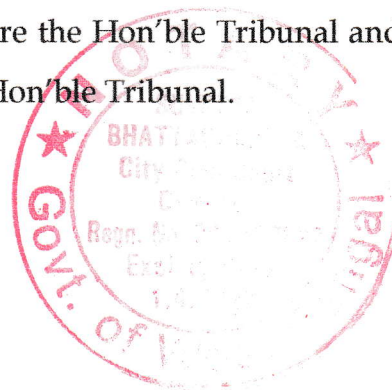
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Tribunal vide Solemn Order dated 30.05.2022 passed in O. A. No.136/2015/EZ.

4. That apropos to the Solemn Order dated 09.07.2024 passed by the Hon'ble Tribunal in the instant case the state respondents had filed affidavit and the same has been taken on record vide Solemn Order dated 05.11.2024.
5. That subsequent to the inspection carried in the month of July, 2024 by the officials of the District Administration of Jalpaiguri in which the officials meet the partner of the ARK Nirman Private Limited after which this applicant came to know about the pendency of the instant matter before the Hon'ble Tribunal.
6. That moreover the District Magistrate Jalpaiguri had issued a notice dated 26.11.2024 to the present applicant stating interalia to remove the stone crushing unit with all equipments.

Photocopy of the letter dated 26.11.2024 written by the District Magistrate Jalpaiguri to the proprietor of ARK Nirman Private Limited is annexed herewith and marked with the letter 'P-2'.

7. That from the site inspection and the letter dated 26.11.2024 issued by the District Magistrate, Jalpaiguri this applicant came to know that the instant M.A. Application had been filed before the Hon'ble Tribunal and the same is pending for adjudication before this Hon'ble Tribunal.



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8. That the unit is a Private Limited Company and is run by its Directors carrying on the business of stone crushing..

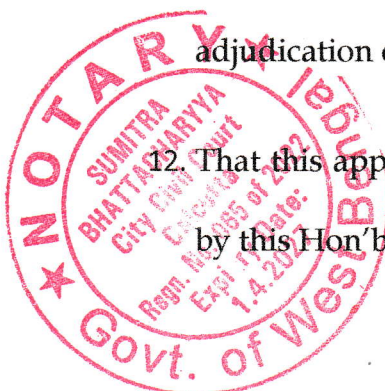
Photocopy of the Certificate of Registration is annexed herewith and marked with the letter 'P-3'

9. That the applicant desires to make submissions with regard to the allegations made in the miscellaneous application and seeks leave of the Hon'ble Tribunal to file the affidavit-in-opposition. But without being added as a party cannot make submissions and file its affidavit-in-opposition in this regard.

10. That after taking consideration the allegations as stated in the inspection report M/s ARK Nirman Private Limited as per statutory norms the M/s ARK Nirman Private Limited is a respondent against whom the allegations have been found as per the inspection conducted by the officials of the Jalpaiguri district administration as per the direction of the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata on 09.07.2024 and the applicant may be permitted to be added as a party respondent and make its submissions before the Hon'ble Tribunal.

11. That it is most humbly submitted before this Hon'ble Tribunal that the M/s ARK Nirman Private Limited may be added as a party respondent for smooth adjudication of the instant original application.

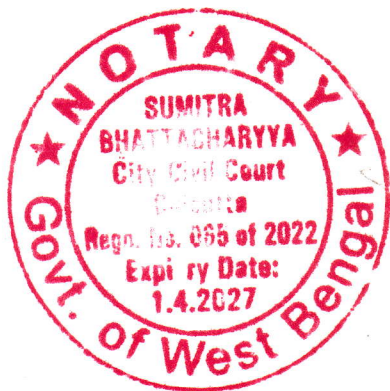
12. That this application is made bonafide and unless this application is allowed by this Hon'ble Tribunal the applicant will suffer irreparable loss and injury.



✕

Under the above circumstances it is most humbly prayed before Your Lordships may kindly be pleased to allow this application and permit the M/s ARK Nirman Private Limited to be added as a party respondent in connection with the instant original application and to pass such further Order/Orders as to this Hon'ble Tribunal may deem fit and proper for the ends of justice.

And For This Act of Kindness Your Applicant as in duty bound shall ever pray.



ARK Nirman Pvt. Ltd.

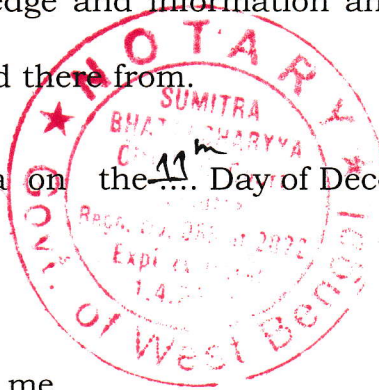
Director

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VERIFICATION:

I, the deponent within named, do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there from.

Verified at Kolkata on the 11th Day of December, 2024.



Identified by me

ARK Nirman Pvt. Ltd.
Rajiv Sharma
Director
Deponent

Krishnendu Bera

Advocate





✕

AFFIDAVIT

I, Rajen Sharma, S/o Late Chiranjibi Sharma, aged about 56 years, by faith- Hindu, by occupation- business and residing at Nividita Road, P.O & P.S- Pradhannagar, SMC, District: Darjeeling, Pin: 734003, do hereby solemnly affirm and state as follows :-

1. That I am the applicant in the instant Interlocutory Application and well conversant with the fact and circumstance of the case and I am competent to sign and swear this affidavit and duly authorized in this behalf.

2. That I have read and Understood the contents of the accompanying application and say that the facts stated above are true and correct as per my personal knowledge and legal advice received by me are the best of my knowledge and belief.

ARK Nirman Pvt. Ltd.

✓ Rajen Sharma
Director

DEPONENT

Prepared in my office

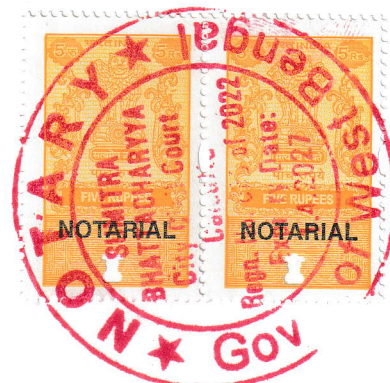
Krishnendu Bera

Advocate

Solemnly Affirmed and
Declared before me U/S 139
CPC, (C)

Sumitra Bhattacharyya
Notary

Sumitra Bhattacharyya
Notary, Govt. of W.B.
Regd. No. 065 of 2022
City Civil Court. Calcutta



"Annexure - P-1"

Cell : 098320-33394
099333-94110
098320-64627

ARK NIRMAN PVT. LTD.

Supplier of Construction Materials Stone Chips/Metal/Sand/Bazree/Boulder Etc.

Manabari Basti, P.O. : Manabari
P.S. : Malbazar, Dist. Jalpaiguri
Pin - 735222

Ref. No

Date

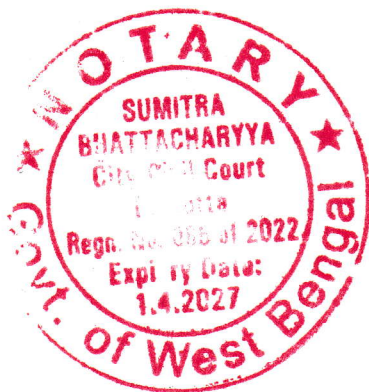
BOARD RESOLUTION FOR AUTHORISATION TO REPRESENT THE COMPANY BEFORE HON'BLE NATIONAL GREEN TRIBUNAL EASTERN ZONE BENCH, KOLKATA

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS HELD ON 01.12.2024 AT THE REGISTERED OFFICE OF THE COMPANY AT 10.00 A. M.

"RESOLVED THAT the consent of the Board of Directors of the Company be and is hereby accorded authorize Mr. Rajen Sharma, Director of the Company to represent the Company in legal proceedings initiated before the Hon'ble National Green Tribunal Eastern Zone Bench, Kolkata, in the Company Petition titled as M/s ARK Nirman Pvt. Ltd. Vs. Sri Subhash Dutta and Ors.

RESOLVED FURTHER THAT Mr. Rajen Sharma, Director of the Company, be and is hereby authorised to file and/or to defend the Company Petition titled as M/s ARK Nirman Pvt. Ltd. Vs. Sri Subhash Dutta and Ors. under the applicable law before the competent Court Tribunal, Authorities or Forums including any Appellate Tribunal for and on behalf of the Company as and when required to give effect to the above resolution.

RESOLVED FURTHER THAT Mr. Rajen Sharma, Director of the Company, be and is hereby authorised to engage any Advocate/Solicitors/Consultants and to submit Vakalatnama, statements, documents, evidences, declarations, etc. before the appropriate Authorities/Court and or the Police Authorities for and on behalf of the Company as and when required."



ARK Nirman Pvt. Ltd.

Rajen Sharma
Director

ARK Nirman Pvt. Ltd.

Rajesh Chhetri
Director

GST No. 19AAICA5202D1Z3

Nivedita Road, P.O. +P.S. Pradhan Nagar, Siliguri-734003

Annexure P-2



GOVERNMENT OF WEST BENGAL
Office of the District Magistrate
Civil Suit Section, Jalpaiguri

Date: 26 /11/2024

Memo No: 253 / XXI/I/9/OA/CS/2015/EZ

From: District Magistrate
Jalpaiguri

To : The Member Secretary,
West Bengal Pollution Control Board
Siliguri Regional Office, Siliguri

Subject: M.A. No. 27/2024/EZ in Original Application No. 136/2015/EZ in the matter of
Subhas Datta - Vs.- State of West Bengal & Ors.;

Reference: Order dated-05/11/2024 passed by the Hon'ble NGT, EZ, Kolkata;

Sir,

Apropos to the above, it is to inform you that the Hon'ble NGT, EZ, Kolkata was pleased to pass an order dated 05/11/2024 thereby directing the District Magistrate & Collector, Jalpaiguri to file the present status report with regard to illegal stone crusher unit situated at Laiti River, Manabari, Oodlabari, PS- Mal, Dist. Jalpaiguri.


The undersigned would also like to inform you that on 07/07/2022 one inspection was conducted by the Sub-Divisional Officer, Mal and during the said inspection it was found that ARK NIRMAN (P) LTD, a stone crusher unit situated at Manabari, Oodlabari, Jalpaiguri was not operating any stone crusher activity as on 07/07/2022. Further another inspection was conducted on 29/07/2024 in presence of representative of SDO, Mal and BL & LRO, Mal jointly and during inspection it was found that the stone crusher unit is situated in very close proximity to the river Laiti within the distance of approximately 100 ft. It was also found that no machines were operating at the time of the visit and also there was no vehicular movement for transportation of materials to and from the crushing unit.

The undersigned would also like to submit that neither the District Magistrate, Jalpaiguri nor the Additional District Magistrate, Jalpaiguri or Sub-Divisional Officer, Mal is authorized/empowered to issue the Consent to Operate letter (CTO) to any of the proprietors further. It is also to inform you that on 17/06/2022 vide Memo No. 912/JM-Indus/2022, the Sub-Divisional Officer, Mal has withdrawn the Consent to Operate (CTO) issued earlier by WBPCB, Siliguri Regional Office, in favour of ARK NIRMAN (P) LTD.

Hence, this is for your kind information and taking necessary action against the said unit.
Thanking you,

Encl. : Order, dated-05/11/2024

Yours faithfully

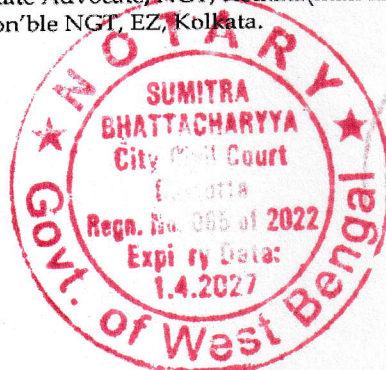

District Magistrate
Jalpaiguri


Memo No: 253 /1(1)/ XXI/I/9/OA/CS/2015/EZ

Date: 26 /11/2024

Copy forwarded to:

1. Mr. Sibojyoti Chakrabarty, Ld. State Advocate, NGT, Kolkata (mail ID subho.advocate@gmail.com)-- with a request to submit the same before the Hon'ble NGT, EZ, Kolkata.




District Magistrate
Jalpaiguri





GOVERNMENT OF WEST BENGAL
Office of the District Magistrate
Civil Suit Section, Jalpaiguri

13

Memo No: 254 / XXI/I/9/OA/CS/2015/EZ

Date: 26 /11/2024

From: Addl. District Magistrate (G)
Jalpaiguri

To : 01. Shri Rajesh Chhetri & 02. Shri Shyamal Agarwal,
Proprietors of M/s. ARK NIRMAN (P) LTD.
Manabari, Oodlabari, P.S. Mal, Dist. Jalpaiguri

Subject: M.A. No. 27/2024/EZ in Original Application No. 136/2015/EZ in the matter of
Subhas Datta - Vs.- State of West Bengal & Ors.;

Reference: Order dated-05/11/2024 passed by the Hon'ble NGT, EZ, Kolkata;


Apropos to the above, I am directed to inform you that the Hon'ble NGT, EZ, Kolkata was pleased to pass an order dated 05/11/2024 with regard to illegal stone crusher unit situated at Laiti River , Manabari, Oodlabari, PS-Mal, Dist. Jalpaiguri .

Further, it is also to inform you that on 17/06/2022 vide Memo No. 912/JM-Indus/2022, the Sub-Divisional Officer, Mal has withdrawn the Consent to Operate (CTO) issued earlier by WBPCB, Siliguri Regional Office, in your favour.

Hence, so as to make the compliance of the said solemn order dated above, you are requested to immediately remove the said illegal stone crusher unit along with all your equipments and machineries situated at Laiti River, Manabari, Oodlabar, PS -Mal, Dist. Jalpaiguri within 07(seven) days (one week) from the date of receipt of this letter.

Please treat this as MOST URGENT.

Encl. : Order, dated-05/11/2024


Addl. District Magistrate (G)
Jalpaiguri

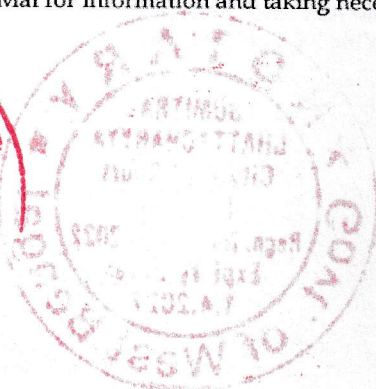
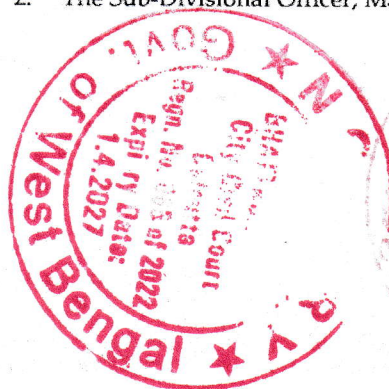
Memo No: 254 /1(2)/ XXI/I/9/OA/CS/2015/EZ

Date: 26 /11/2024

Copy forwarded to:

1. Mr. Sibojyoti Chakrabarty, Ld. State Advocate, NGT, Kolkata(mail ID subho.advocate@gmail.com)-- with a request to submit the same before the Hon'ble NGT, EZ, Kolkata
2. The Sub-Divisional Officer, Mal for information and taking necessary action.


Addl. District Magistrate (G)
Jalpaiguri



4
Annexure - P-3

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सत्यमेव जयते

प्रारूप 1
पंजीकरण प्रमाण-पत्र

कॉर्पोरेट पहचान संख्या : U45400WB2010PTC147504

2010 - 2011

मैं एतद्वारा सत्यापित करता हूँ कि मैसर्स

ARK NIRMAN PRIVATE LIMITED

का पंजीकरण, कम्पनी अधिनियम 1956 (1956 का 1) के अंतर्गत आज किया जाता है और यह कम्पनी प्राइवेट लिमिटेड है।

यह निगमन-पत्र आज दिनांक बारह मई दो हजार दस को मेरे हस्ताक्षर से कोलकाता में जारी किया जाता है।

Form 1
Certificate of Incorporation

Corporate Identity Number : U45400WB2010PTC147504

2010 - 2011

I hereby certify that ARK NIRMAN PRIVATE LIMITED is this day incorporated under the Companies Act, 1956 (No. 1 of 1956) and that the company is private limited.

Given under my hand at Kolkata this Twelfth day of May Two Thousand Ten .

(SWADHIN BARUA)

Deputy Registrar of Companies

पश्चिम बंगाल

West Bengal



कम्पनी रजिस्ट्रार के कार्यालय अभिलेख में उपलब्ध पता का पता
Mailing Address as per record available in Registrar of Companies office:
ARK NIRMAN PRIVATE LIMITED
C/O CHANDA COMPANY, BAGRAKOTE MAL,
JALPAIGURI - 735501,
West Bengal, INDIA



Annexure P4



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I. A of 2024 (M/S ARK
Nirman Private Limited -Vs- Sri
Subhas Dutta & Ors.) Add label



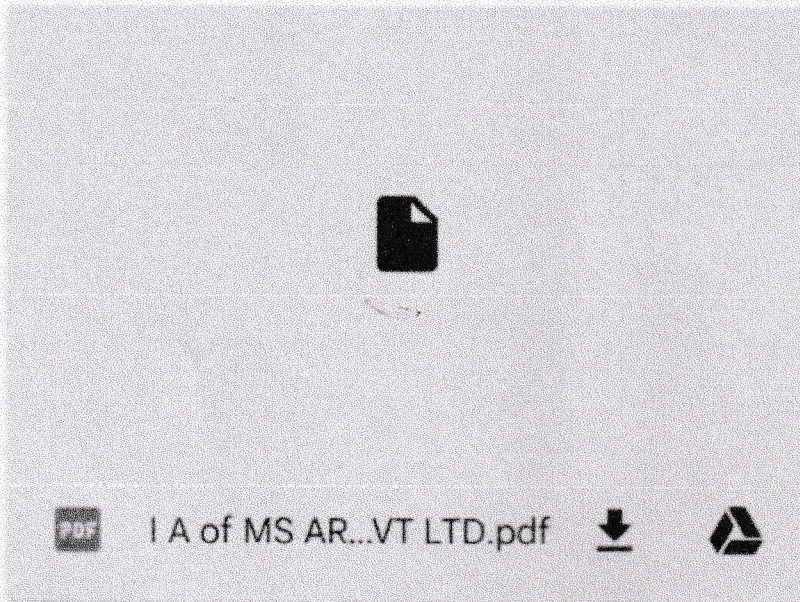
KRISHNENDU B... 5:29 PM



to subhasdatta, Dipan... v

Sir,
Enclosed please find herewith soft copy of the
aforementioned application filed by M/S ARK Nirman
Private Lrd. in connection with M.A no. 27 of 2024/EZ
arising out of Original Application no. 136/2015/EZ for your
kind perusal and information.

Enclosed as above.



I A of MS AR..VT LTD.pdf



Reply all



ARK Nirman Pvt. Ltd.
 Rajan Sharma
 Director

VAKALATNAMA

In the Court of The Hon'ble National Green Tribunal Eastern Zone
 Bench, Kolkata.

I. A ~~Suit~~ Case No.

of 2024/EZ (M. No. 27/2024/EZ)

M/s ARK Nirman Private Limited

{ Plaintiff

-VERSUS-

Sri Subhas Dutta & Ors.

{ Defendant

Vakalatnama on behalf of : the petitioner M/s ARK Nirman Private Limited.

Knows all men by these presents that by this Vakalatnama. I/We appoint the Advocates noted below or any one of them my/our lawful Advocate or Advocates.

for filling the memorandum of appeal or petition
 or entering appearance

in the above matter for appearing and conducting and arguing the same for depositing or withdrawing any money in connection therewith, for moving the Court in any matter connected therewith, for preparing the Paper Book in the case and for putting in papers, petitions, etc. on my/our behalf for filing taking back any documents for withdrawing suits or appears or petitions with permission to institute fresh suits, appeals, petition etc. for signing and filing petitions of compromise in connections with the said matter and for taking copies of paper from the Record and I/We further say that any act done by my/our said Advocate or Advocates or by any one of them after accepting this Vakalatnama, shall be considered as my/our own true and lawful act.

And I/We further hereby agree and undertake to pay the said Advocates his or their fees as settled and all others sums that may be necessary to carry out the requisitions of the Court and otherwise to enable the said Advocates to conduct the case properly, failing which the said Advocates after notice to me/us will be at liberty to withdraw from the further conduct of the case.

IN WITNESS WHEREOF I/We sign and execute this Vakalatnama, on this the 11th
 day on December, 2024

NAME OF THE ADVOCATE

KRISHNENDU BERA.

ADVOCATE, High Court
 Calcutta.

Enrollment no: F/1864/2010

Email Id: Krishnendubera87@gmail.com.

Phone no: 9804470595

Address: 280, G.L.T Road, KOL-36.

Received the vokalatnama from
the executant within named
satisfied and accepted.

Krishmendu Bera

Advocate

BEFORE THE HON'BLE
NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA

I.A. No. of 2024/EZ

In

M. A. no. 27/2024/EZ

(Arising out of ORIGINAL
APPLICATION NO. 136/2015/EZ)

In The Matter of:

M/s ARK Nirman Private Limited

... Applicant

Versus

Subhas Datta & Ors.

... Respondents

**INTERLOCUTORY APPLICATION ON
BEHALF OF THE APPLICANT**

Krishnendu Bera

Advocate

For The Applicant

(M): 9804470595

Email: krishnendubera87@gmail.com