**NOTICE UNDER SECTION 20(3) OF THE ARBITRATION ACT, 1940**

IN THE HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL ORDINARY ORIGINAL CIVIL JURISDICTION*(Title)*

(Suit No..................... of.................... 19..................... )

To

The defendant abovenamed,.................... whereas the plaintiff abovenamed has on the.................... day of.................... 19..................... made an application which has been numbered and registered as Suit No..................... of.................... 19.................... for and order that the arbitration agreement dated this day of .................... of................... and entered into by and between the plaintiff and you the defendant be filed, you are hereby required under sub-section (3) of Section 20 of the Arbitration Act, 1940, being served with this notice, to appear before the Court on the.................... day of.................... 19.................... at.................... o’clock in the fore noon to show cause why the said agreement should not be filed.

Registrar/Master

Dated.................... 19....................

**CASE LAW**

Arbitrator has power and jurisdiction to grant preference interest in reference made after the coming into force of the Interest Act, 1978 (The Interest Act, 1978 came into force w. e. f. 19. 8. 1981).1

The arbitrator has a discretion to award *pendente life* interest under the law.2

The award can be touched only when there is glaring illegality or injustice in arriving at the conclusion by the Arbitrator.3

Claim for escalation of rates is not sustainable when there is no provision for it in contract the arbitrator’s award vis-a-vis that claim cannot be upheld.4

**POWER TO AWARD *PENDENTE LITE* INTEREST**

Arbitrator can grant *pendente life* interest.5

**LIMITATION**

Exclusion of period spent in pursuing arbitration proceedings not permissible when reference to arbitration was itself bad.6

**INTEREST FOR PRE-REFERENCE PERIOD**

1940 Act

Interest for pre-reference period cannot be granted.7

**POWERS OF ARBITRATOR**

***Section 20***

Arbitrator cannot assume any jurisdiction to award any amount towards escalation.8

1. Sudhir Brothers v. Delhi Development Authority, 1996 (1) C. C. C, 6 (S. C. ).

2. Union of India v. Sri Kedar Somani, 1996 (1) C. C. C. 205 (H. C. ).

3. State of U. P. v. Om Metals and Minerals (P) Ltd., 1996 (1) C. C. C. 41 (H. C. ).

4. Govt. of A. P. rep. by its Secretary Irrigation Department v. G. Kondala Rao (Dead) by L. Rs., 1996 (1) C. C. C. 73 (H. C. ).

5. State of Orissa v. Sudhakar Das, AIR 2000 SC 1294.

6. M/s. Jupitor Chit Fund (P) Ltd. v. Sri Shiv Narain Mehta, AIR 2000 SC 1295.

7. State of Orissa v. B. K. Routray, AIR 1999 SC (10).

8. State of Orissa v. Sudhakar Das, AIR 2000 SC 1294.