

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

ARBITRATION APPLICATION No. 81 OF 2014

Date: 11-09-2015

Between:

M/s. Pennar Engineered Building Systems Ltd.,
Rep., by its authorized signatory,
Hyderabad.

... Applicant

And

M/s. Collage Design Private Ltd.,
Rep., by its Managing Director,
Mumbai.

... Respondent

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

ARBITRATION APPLICATION No. 81 OF 2014

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PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This arbitration application was filed under Section 11(5) and (6) of the Arbitration and Conciliation Act, 1996, seeking appointment of an Arbitrator.

On 11.07.2014, notice was issued to the respondent. Even after service of notice, neither the respondent nor any advocate on their behalf entered appearance. On 24.07.2015, since none appeared on behalf of the respondent, the arbitration application was adjourned in order to give them one more opportunity. Even today, none appears for the respondent. In the circumstances, I proceed to pass this order.

I have perused the agreement/work order for the supply of steel structures. The arbitration clause reflected therein, reads thus:

"This agreement shall be construed and enforced in accordance with and under the laws of the Government of India. Both parties agree that in any case of any difference or dispute between the seller and the buyer will be resolved by mutual discussions and agreement. However, unresolved issues, if any, will be settled by arbitration as per the Indian Arbitration and Conciliation Act and the venue of the arbitration will be in Mumbai."

Learned counsel for the applicant submits that in view of the aforementioned agreement, the applicant issued a notice on 22.03.2014 calling upon the respondent for payment of outstanding amount and/or for nomination of Arbitrator in order to resolve disputes between them. Though the notice was served on the respondent on 24.03.2014, they did not reply.

In view thereof and having considered the contents of the work order and the notice, dated 22.03.2014, I am inclined to allow this application.

Accordingly, Sri Justice C.V. Ramulu, retired Judge of this Court, is appointed as sole arbitrator and all disputes between the parties are referred to him.

Learned Arbitrator shall fix his remuneration upon deliberation and consultation with the parties. The costs and expenses of the secretarial assistance of the arbitration proceedings shall also be determined by the learned Arbitrator. Each party will bear the expenses of the arbitration proceedings in all respects in equal share. I desire that learned Arbitrator shall complete the arbitration proceedings by making publication of Award within a period of six months from the date of entering upon reference. Learned Arbitrator shall hold sittings as far as possible in the mediation/arbitration centre to be set up in the High Court at Hyderabad, which is likely to commence before the ensuing Dussehra vacation.

The arbitration application is accordingly allowed.

The applicant is directed to communicate this order by three different modes to the respondent within a period of two weeks from today and place proof of service before the learned Arbitrator.

DILIP B. BHOSALE, ACJ

Date: 11.09.2015
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