

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT
HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

ARBITRATION APPLICATION No. 20 of 2014

DATE: 17.04.2015

Between:

M/s. Sai Ratna Constructions
Hyderabad.

... Applicant

And

The KCP Limited,
Hyderabad & another.

... Respondents

This Court made the following:

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

ARBITRATION APPLICATION No. 20 of 2014

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ORDER:

This application for appointment of arbitrator has been opposed by the respondents contending that the applicant firm is not a registered one. Therefore, this application is barred under the provisions of Section 69 of the

Indian Partnership Act, 1932. That apart there has been objection as to jurisdiction. However, there are disputes with regard to claim and rival claim of the parties and this is not required to be examined by me.

Neither in the body of the application nor in the cause title the applicant firm has been described as a partnership firm. In the counter affidavit a specific plea has been taken to that effect and in the affidavit in reply it has been stated that applicant firm is a registered one and registration number has also been mentioned. In that view of the matter, this objection is not sustained.

Second point has been raised with reference to venue of arbitration agreed to be at Chennai, and therefore, I have no territorial jurisdiction. I overrule this contention, as both the parties are residing and working within the territorial limit of the State of Andhra Pradesh and Hyderabad as well. The decision of the Constitution Bench of the Supreme Court in the case of **Bharat Aluminium Company vs. Kaiser Aluminium Technical Services Inc.** has not ousted jurisdiction of natural forum under law. Moreover, in my view the aforesaid judgment may be applicable to the Court, not in respect of authority of the Hon'ble Chief Justice under Section 11 of the Arbitration and Conciliation Act, 1996. I therefore allow this application.

Accordingly, I appoint Sri D.V. Sitharam Murthy, learned Senior Advocate of this Court, sole Arbitrator, to adjudicate the disputes between the parties. The learned Arbitrator shall fix his own remuneration upon deliberation and consultation with the parties. He will also estimate the costs and expenses for the secretarial assistance and other incidental expenditure of the arbitration proceedings. The parties will bear the expenses of the arbitration proceedings in equal share. I direct the learned Arbitrator to complete the arbitration proceedings by making and publishing an award within a period of five months from the date of entering upon the reference.

Kalyan Jyoti Sengupta, CJ.

Date: 17.04.2015

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