

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT
HYDERABAD

—
THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA

—
ARBITRATION APPLICATION No. 189 of 2014

DATE: 06.02.2015

Between:

M/s. Water Health India Pvt., Ltd.,
Hyderabad.

... Applicant

And

Sri Indrayi Mahila Mandala Samakhya
Adilabad District & another.

... Respondents

This Court made the following:

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THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

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ARBITRATION APPLICATION No. 189 of 2014
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ORDER:

Service is completed. No one appears for the respondents to oppose this application.

I have seen the agreement signed by the applicant and the 1st respondent only. In that agreement there is an arbitration clause being clause No.8.1. Since the 2nd respondent is not a signatory to the agreement, it is deleted from the array of respondents. Therefore, this order will be binding upon the applicant and the 1st respondent only.

It appears prima facie that there has been an agreement between the applicant and the 1st respondent - Sri Indrayi Mahila Mandala Samakhya. By this agreement the applicant has agreed to supply drinking water at a prescribed rate and accordingly it has installed water treatment plant. Despite installation of the plant, it was not allowed to be operative and as a result there has been a dispute between the parties and the applicant has made a claim on account of damages because of the breach of such agreement. The aforesaid agreement provides for a mechanism for resolution of the disputes between the parties. The said mechanism is nothing but an arbitration agreement, which is set out hereunder.

“8.1. In the event a dispute or difference arises in connection with the interpretation or implementation of this agreement, either party may refer the dispute by arbitration according to the Arbitration and Conciliation Act, 1996 as amended from time to time or any other law for the time being in force.

The arbitration proceedings shall consist of three arbitrators, one to be appointed by WHIN and the other to be appointed by the Mandal Mahila Samakhya. The two appointed arbitrators shall appoint the third arbitrator. The arbitration shall be conducted in Hyderabad.”

In terms of the aforesaid agreement the applicant has chosen its own nominee arbitrator and thereafter called upon the respondent to choose its nominee arbitrator. Despite receipt of notice and the period of 30 days having been expired, the respondent has not appointed its nominee arbitrator. Under these circumstances, I direct the respondent – Sri Indrayi Mahila Mandala Samakhya, Indervalli Village and Mandal, Adilabad District, to nominate their nominee arbitrator within a period of 15 days from the date of receipt of a copy of this order, failing which, Sri B. Mayur Reddy, a practicing advocate of this Court, shall be appointed as nominee arbitrator of the respondent. Thereafter, both the learned arbitrators shall nominate the third arbitrator in terms of the arbitration agreement.

The remuneration of the respective nominee Arbitrators of the respective parties shall be borne by the respective parties individually.

However, so far as the third Arbitrator is concerned, the learned Arbitrator shall fix his own remuneration upon deliberation and consultation with the parties. He shall also estimate the cost and expenses of the secretarial assistance and other incidental expenditure for the arbitration proceedings. The parties shall bear the expenses of the arbitration proceedings in equal share. Despite service of notice upon the respondent – Sri Indrayi Mahila Mandala Samakhya, no appearance is made, the arbitral Tribunal shall be free to proceed with the matter in the absence of the respondent and in that case the applicant alone at the first instance shall pay the costs of the arbitral Tribunal. I therefore direct the arbitral Tribunal to make and publish the award within a period of five months from the date of entering upon the

reference.

The arbitration application is accordingly disposed of.

Kalyan Jyoti Sengupta, CJ.

Date: 06.02.2015

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