

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA

ARBITRATION APPLICATION No.38 of 2014

DATE: 06.02.2015

Between:

Volam Bhaskar Rao,
Hyderabad and another

... Applicants

And

M/s. Nandan Cleantec Limited,
Hyderabad and another

... Respondents

This Court made the following:

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

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ORDER:

I have heard Mr. B. Mayur Reddy, learned counsel for the applicants, and Mr. M.S. Prasad, learned Senior Counsel for both the respondents.

This application has been made for appointment of an Arbitrator in relation to a Memorandum of Understanding, dated 27.11.2012.

However, after examining the pleadings and hearing the learned counsel for the parties, it seems to me that appointment of Arbitrator is not required to be confined to the above memorandum of Understanding. This also covers another Memorandum of Understanding dated 24.01.2011.

Mr. M.S. Prasad, learned Senior Counsel appearing for the respondents, says that his clients have no objection to the appointment with regard to other Memorandum of Understanding. He submits that there has been no dispute with regard to the existence of the arbitration agreement. But, he contends that there is no arbitrable dispute at all for adjudication, for which, his clients are willing to go to arbitration unnecessarily.

In the context of the above submission, I have examined the pleadings and it appears to me that the contention of the respondents *prima facie* have not been accepted or admitted by the applicants. It is impossible for me to decide reading affidavits and accompanying documents, whether arbitrable dispute exists. I am not the appropriate forum to receive evidence and decide the disputes arose. All disputes raised by the parties in the pleadings before me, including the

arbitrability of the dispute, are kept open for arbitration. Both the learned counsel have agreed to the appointment of sole Arbitrator, namely, Justice

P.L.N. Sarma, a retired Judge of this Court and hence, I appoint him sole arbitrator. All disputes raised in the pleadings and documents are referred to the sole arbitrator for adjudication.

The learned Arbitrator will fix his own remuneration upon deliberation and consultation with the parties. He will also fix the costs and expenses of the secretarial assistance for the arbitration proceedings upon deliberation and consultation with the parties. All the costs and expenses of the arbitration proceedings shall be borne by both the parties, namely, appellants on the one hand and the respondents on the other, in equal share. In the event, any of the parties fails to meet arbitration expenses, then any of the parties will be free to bear the expenses of the arbitration proceedings and such costs shall be added if the award is passed in his favour. If none of the parties is willing to bear the costs/expenses of the arbitration at any stage of the proceedings the learned Arbitrator need not proceed and all the issues will be closed and the arbitration proceedings and disputes shall stand terminated.

The Arbitration Application is accordingly disposed of.

K.J. SENGUPTA, CJ

Date: 06.02.2015

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