

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT
HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

ARBITRATION APPLICATION No. 17 of 2012

DATE: 10.04.2015

Between:

Aster Private Limited,
Secunderabad.

... Applicant

And

Reliance Communications Ltd.,
Navi Mumbai.

... Respondent

This Court made the following:

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

ARBITRATION APPLICATION No. 17 of 2015

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ORDER:

In spite of notice, none appears for the respondent to oppose this application. Upon reading of the statements and averments made in the application I am satisfied that there has been a valid arbitration agreement between the parties, which is set out hereunder.

“Any dispute, difference, controversy or claims (“Disputes”) arising between the parties out of or in relation to or in connection with this MOS or the breach, termination, effect, validity, interpretation or application of this MOS or to their rights, duties or liabilities hereunder, shall be settled by the parties by mutual consultation. If for any reason such disputes cannot be resolved amicably by the parties, the same shall be referred to and settled by Arbitral Tribunal consisting of three arbitrators. The arbitration proceedings shall be held in accordance with the Arbitration and Conciliation Act, 1996 or any subsequent enactment or amendment thereto (the “Arbitration Act”). Each of the parties shall appoint an arbitrator within 30 days of the receipt by a party of the other party’s request to initiate arbitration proceedings. The two arbitrators so appointed shall then jointly appoint a third arbitrator within 30 days of the date of appointment of second arbitrator, such third arbitrator shall act as the Presiding Arbitrator. Arbitrator not appointed within the time limit set forth hereinabove, shall be appointed in accordance with provisions of the Arbitration Act. The decision of the arbitrators shall be final and binding upon the parties. The venue of arbitration proceedings shall be Mumbai. The cost of arbitration shall be equally shared by the parties hereto. The arbitral Tribunal shall give a reasoned award that shall be final and binding upon the parties.”

I have also examined the disputes raised and I find that the same are covered by the aforesaid arbitration agreement. The arbitration agreement provides for a mechanism for formation of arbitral Tribunal. However, despite notice being given to the respondent, there is no appearance. As such, I think the respondent is disentitled to appoint any arbitrator of its choice. Since the formation of arbitral Tribunal agreed by the parties has not been worked out, notwithstanding arbitration agreement being valid, I think instead of plural arbitrators there should be sole arbitrator.

Accordingly, I appoint Sri Justice T. Lakshmi Narayana Reddy, a retired Judge of this Court, sole Arbitrator, who will adjudicate the disputes between the parties, as may be raised before him. The learned Arbitrator shall fix his own remuneration upon deliberation and consultation with the parties. He shall also estimate the cost 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 desire that the learned Arbitrator will complete the arbitration proceedings by making and publishing an award within a period of five months from the date of entering upon the reference.

The Application is accordingly disposed of.

Kalyan Jyoti Sengupta, CJ.

Date: 10.04.2015

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