

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA

ARBITRATION APPLICATION NOs.158, 159 AND 160 OF 2014

DATED:27.2.2015

Between:

Blue Star Limited

A Company incorporated under the Companies Act, 1913

Having its office at 207, Sikh Road, Bantia Estate,

Secunderabad – 500003

Telangana State

Represented by its Authorized Signatory

Mr. D. Santosh

... Applicant

And

Daaj Hotels & Resorts Pvt. Ltd.,

A Company incorporated under the Companies Act, 1956

Having its regd. office at No.8-2-409

Road No.06, Banjara Hills

Hyderabad – 500034, Telangana State

Represented by its President Finance – Mr. P.S. Sastry

...

Respondent

...

Respondents

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA

ARBITRATION APPLICATION NOS.158, 159 AND 160 OF 2014

COMMON ORDER:

These applications are filed for appointment of an Arbitrator.

Upon perusing the pleadings and hearing the learned counsel for the parties, I do not find that there is any dispute with regard to existence of an arbitration agreement. The only dispute is relating to formation of the arbitral tribunal.

The arbitration agreement provides for appointment of two arbitrators and in case of disagreement, appointment of an umpire by the two arbitrators. Learned counsel for the applicant says that since appointment of even number of arbitrators is not permissible under Section 10 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'), his client wrote a letter to the respondent proposing appointment of sole arbitrator and in spite of receipt of the letter no response is forthcoming from the respondent. Therefore, he contends that appointment of sole arbitrator as proposed by the applicant shall be accepted.

Learned counsel for the respondent, on the other hand, says that if Section 10 of the Act is read carefully, it would appear that embargo is against formation of tribunal of even number of members, and in case of disagreement, then sole arbitrator may be appointed, but this section does not say that choice of sole arbitrator of one party automatically has to be agreed by both the parties. Even in case of appointment of sole arbitrator, there must be agreement and the

person appointed by the applicant as sole arbitrator is not acceptable to his client.

In the circumstances, I think that I can intervene in the matter and appoint sole Arbitrator. As rightly contended by both the parties Section 10 of the Act does not permit appointment of even number of arbitrators and obviously, choice would be of singular.

Accordingly, I appoint Mr. Justice K.S. Appa Rao, a retired Judge of this Court, sole Arbitrator, to adjudicate the disputes between the parties to be placed before him.

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 in equal share. The learned Arbitrator is directed to conclude the arbitration proceedings and make publication of Award within five months from the date of entering upon the reference.

The arbitration applications are accordingly disposed of.

K.J. SENGUPTA, CJ

27.02.2015

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