

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

ARBITRATION APPLICATION No.8 OF 2013

ORDER:

The partnership deed dated 24.08.1994 contains an arbitration clause. Clause 20 thereof stipulates that, in case of any dispute arising among the partners of the newly reconstituted firm, the same will be referred to arbitration; and the decision of the arbitrator shall be final and binding on all the parties.

The applicants herein issued a notice on 24.08.2012 seeking rendition of accounts and dissolution of the firm. They sought resolution of the disputes by an arbitrator, and suggested the name of three advocates, one of whom the respondent could choose as the arbitrator. In reply thereto the respondents, by their letter dated 08.10.2012, contended that, since the partnership deed was unregistered, the question of invoking the provisions of the Arbitration and Conciliation Act, 1996 did not arise. The fact that a partnership deed was executed, between the petitioners and the respondents, is not in dispute. No provision of law, which requires an arbitration clause only in a registered partnership deed to be acted upon, has been brought to my notice. I see no reason, therefore, to non-suit the applicants on this ground.

Sri G.Ravi Mohan, Learned Counsel for respondents 3 to 5, would submit that a compromise was arrived at between respondents 3 to 5 on the one hand and the 2nd respondent on the other, whereby the 2nd respondent's 30% share in the partnership firm was given to respondents 3 to 5; and, consequent thereto, respondents 3 to 5 now hold 80% share of the partnership firm. The fact, however, remains that the applicants' share of 20% in the partnership firm is not

disputed. The dispute, resolution of which an arbitrator is sought to be appointed, relates to the rendition of accounts and dissolution of the firm, and not regarding the share of the applicants in the partnership firm. The compromise, between respondents 3 to 5 on the one hand and the 2nd respondent on the other, has no bearing on the disputes which the applicants seek to have resolved through the arbitral mechanism. The Arbitration Application is, therefore, ordered.

Sri N.Ganesh Babu, retired District Judge, R/o.A-328, Lakshmi Complex, Yerragadda, Hyderabad – 500 018, is appointed as the sole arbitrator to adjudicate the dispute between the parties. The arbitrator shall fix his remuneration, and incidental charges for the arbitration proceedings, in consultation with the parties. He shall complete arbitration proceedings, and pass an award at the earliest, preferably within a period of six months from the date of commencement of arbitral proceedings. He shall hold sittings, as far as possible, in the mediation centre of the High Court.

The Arbitration Application, is accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ

Date:25.11.2016

Note:
Issue C.C. within a week.
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