

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

ARBITRATION APPLICATION No.86 OF 2015

DATED: 10.06.2016

Between:

Y. Naga Bhaskara Rao

... Applicant

and

M/s.Aliens Developers Private Limited

... Respondent

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

ARBITRATION APPLICATION No.86 of 2015

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PC:

Heard learned counsel for petitioner.

None for respondent though served.

On 13.04.2016, following order was passed:

“Heard Sri E. Phani Kumar, learned counsel for the applicant and Sri G. Gopala Krishna, learned counsel holding for Sri A. Krishnam Raju, Advocate on record for the respondent.

On last occasion, none appeared for the respondent and hence the matter was adjourned making it clear that if the Advocate for the respondent does not appear this Court would proceed to appoint Arbitrator as suggested by the applicant.

Today, Sri G. Gopala Krishna, learned counsel, once again seeks adjournment on the ground that Sri A. Krishnam Raju is not available.

Stand over to 10.06.2016 subject to payment of costs of Rs.3,000/- (Rupees three thousand only) to be paid to the applicant through his Advocate. If the costs is not paid, it is once again made clear that this Court may proceed to appoint Arbitrator as suggested by the applicant.”

Mr. E. Phani Kumar, learned counsel for petitioner submits that till this date, costs have not been paid.

Today, none appears for the respondent. Hence, I have heard learned counsel for the petitioner. The petitioner and the respondent-developer entered into an agreement in

respect of a flat on 23.03.2011. Thereafter, petitioner from time to time made payment in instalments and the total amount that has been paid by the petitioner is Rs.27,25,000/-. Since a dispute arose, the petitioner through his advocate gave notice, dated 07.05.2015 as per clause/paragraph XVIII of the agreement for appointment of arbitrator. It appears that negotiations before the notice for amicable settlement did not materialize. The notice was not replied by the respondent. In the notice, the petitioner sought concurrence for appointment of Sri A.P. Bhanj Deo, retired District and Sessions Judge as an Arbitrator to decide the claim of the petitioner against the respondent as per the provisions of the Arbitration and Conciliation Act, 1996.

Mr. E. Phani Kumar, learned counsel for petitioner, in all fairness, submits that instead of appointing the Arbitrator, as suggested by the petitioner, since respondent is not represented, this Court may appoint any other person, preferably, retired High Court Judge as Arbitrator. Hence, I pass the following order:

“Sri Justice R. Kantha Rao, retired Judge of this Court is appointed as sole Arbitrator in terms of clause/paragraph 18 of the agreement, dated 23.03.2011.

Learned Arbitrator shall fix his remuneration upon deliberation and consultation with the parties. The costs and expenses of the secretarial assistance of the arbitration proceedings shall also be determined by the learned

Arbitrator. Each party will bear the expenses of the arbitration proceedings in all respects in equal share. Learned Arbitrator shall complete the arbitration proceedings by making publication of Award within the time stipulated under the provisions of Arbitration and Conciliation Act, 1996. Learned Arbitrator may hold meetings at the arbitration centre in the High Court premises, 'C' Block."

The arbitration application is accordingly disposed of.

Learned counsel for petitioner is prepared to communicate this order to the respondent by three different modes.

DILIP B. BHOSALE, ACJ

10th JUNE, 2016.

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