

**HIGH COURT OF CHHATTISGARH, BILASPUR****Arbitration Application No.80 of 2011**

M/s Aasma Marketing Pvt. Ltd Through its Director Shri Ratnesh Jaiswal, Engineer, Consultant & General Order Suppliers, having its registered office - In front of Shepherd School, Mungeli Naka Road, Bilaspur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh Through its Secretary Housing & Environment C.G. Government, Mantralaya Building Raipur (CG)
2. Director, Town and Country Planning, RDA Building, Bajrang Complex, Shashtri Chowk, Raipur-492001 (CG)
3. Joint Director, Town & Country Planning, RDA Building, Bajrang Complex, G.E. Road, Raipur (CG)

---- Respondents

---

|                 |   |                                |
|-----------------|---|--------------------------------|
| For Petitioner  | : | Mr.Ravi Ranjan Sinha, Advocate |
| For Respondents | : | Mr.Shashank Thakur, G.A.       |

---

**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order on Board**

27/06/2017

1. This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'Act of 1996') for appointment of arbitrator as dispute has arisen pursuant to the agreement dated 7<sup>th</sup> May, 2004.
2. Learned counsel for the petitioner would submit that there is an agreement between the parties and agreement contains arbitrable clause and dispute has arisen between the parties, therefore, the aribtrator be appointed in view of the provisions contained in Section 11(6) of the Act of 1996 to resolve the dispute arisen between the parties.

**3.** On the other hand, learned State Counsel would submit that dispute is works-contract which comes within the meaning of Section 2 (i) of the Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983 (hereinafter called 'Act of 1983') and therefore, the application deserves to be rejected.

**4.** I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

**5.** Section 2 (i) of the Act of 1983 defines the works-contract as under:-

“2(i) “works-contract” means an agreement in writing for the execution of any work relating to construction, repair or maintenance of any building or superstructure, dam, weir, canal, reservoir, tank, lake, road, well, bridge, culvert, factory, work-shop, powerhouse, transformers or such other works of the State Government or Public Undertaking as the State Government may, by notification, specify in this behalf at any of its stages, entered into by the State Government or by an official for and on behalf of such Public Undertaking and includes an agreement for the supply of goods or material and all other matters relating to the execution of any of the said works.”

**6.** Copy of the agreement has been filed as Annexure P/1. The scope of work has been attached as Annexure-1 to the said application, which states as under:-

| SR. | Details                                                                                                                                                                                                          | Rate (Rs)/Unit                                                        |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| 1   | A) Carrying out Survey work with Electronic total Station and Survey Software showing natural and permanent features. Printout in colour in 1: 4000 scale and soft copy in CD (for Urban Area/Dense Urban Area). | 1,300/- per hectare (Rs. One thousand three hundred only per hectare) |

|   |                                                                                                                                                                                                                          |                                                                   |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
|   | B) Carrying out Survey work with Electronic total Station and Survey Software showing natural and permanent features. Printout in color in 1:4000 scale and soft copy in CD (for Semi-Urban Area/Semi-Dense Urban Area). | 940/- per hectare (Rs.Nine hundred forty only per hectare)        |
|   | C) Carrying out Survey work with Electronic total Station and Survey Software showing natural and permanent features. Printout in color in 1:4000 scale and soft copy in CD (for Open Land Area/Open Area)               | 475/- per hectare (Rs.Four hundred Seventy five only per hectare) |
| 2 | Socio-Economic survey Collection of details of houses/premises with their situation and residents details                                                                                                                | 2000/- per hectare (Rs.Two thousand only per hectare)             |
| 3 | Survey of Roads with it's allignment, L-Section and cross section in 500 meters.                                                                                                                                         | 5,000/- per KM (Rs.Five thousand only per Kilo Meter)             |
| 4 | Digitization of Maps (A-0 size)                                                                                                                                                                                          | 13,000/- per Map (Rs.Thirteen thousand only per Map)              |

**7.** A careful perusal of the scope of work attached with the agreement would show that agreement is carrying out survey work. It cannot be said to be works-contract within the meaning of Section 2 (i) of the Act of 1983. Accordingly, overruling the objection of the State, it is held that this Court is an appropriate High Court for appointing an arbitrator for resolving the dispute exists between the parties and there is an arbitral agreement. Therefore, in exercise of my power under Section 11(6) of the Act of 1996, I hereby appoint Hon'ble Mr.Justice Dhirendra Mishra, Former Judge, High Court of Chhattisgarh, resident of Tilak Nagar, Bilaspur, District Bilaspur, Chhattisgarh as the sole arbitrator to adjudicate the dispute that has arisen between the parties, in accordance with the provisions of the Act of 1996.

- 8.** Registry is directed to communicate this order to learned sole arbitrator- Hon'ble Mr.Justice Dhirendra Mishra, Former Judge, High Court of Chhattisgarh forthwith to enable him to enter upon the reference and decide the matter as expeditiously as possible.
- 9.** The arbitration application is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)

Judge

B/-