

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ARBA No. 45 of 2015**

1. Suresh Atlani, S/o Late Golaram Atlani, aged about 56 years,
2. Abhishekh Atlani, S/o Suresh Atlani, aged about 30 years,

Both partner of Geekay Developers, Ashoka Millennium, Ring Road No. 1, New Rajendra Nagar, Raipur (C.G.)

Both Resident of Opposite Sales Tax Colony, Khamardih Road, Shankar Nagar, Raipur, District Raipur (C.G.)

---- Petitioners**Versus**

Anand Chokar, S/o Late B.R. Chopkar, aged about 59 years, R/o Quarter No. 8, Central Avenue East, Near Hanuman Temple, Choubi Colony, Raipur, District Raipur (C.G.)

---- Respondents

For Petitioners : Mrs. Renu Kochar, Advocate.
For Respondent : Mr. Malay Kumar Bhaduri, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****25/08/2017**

(1) The applicants filed instant arbitration application under Section 11(6) of the Arbitration & Conciliation Act, 1996 (henceforth 'Act, 1996') for appointment of Arbitrator on the basis of Annexure A-3, dated 31.12.2011 i.e. deed of admission and retirement of partnership.

(2) Learned counsel for the petitioners would submit that the arbitral dispute has arisen between the parties pursuant to the fact that the respondent, after retirement, is started raising dispute and executed a retirement deed on 31.10.2011. She further submits that clause 15 of the deed of admission and retirement of partnership contains arbitration

clause and the provisions of Act of 1996 would apply in the said clause and, therefore, matter may be referred to the sole arbitrator.

(3) Learned counsel for the respondent has raised two objections in the appointment of sole arbitrator; firstly that the copy of deed (Annexure A-3) is not the certified copy or the original copy of the deed of admission and retirement of partnership and, therefore, the application is liable to be rejected; the Second objection is that the said deed is not registered under the Indian Stamp (Chhattisgarh Amendment) Act, 2013 as this amendment has come into force with effect from 7.8.2013 whereas according to the petitioner, as the said deed (Annexure A-3) is executed on 31.12.2011, the said amendment in the Indian Stamp Act, 2013 is not applicable to the facts of the case.

(4) I have heard learned counsel appearing for the parties and perused the order impugned

(5) So far as first objection raised by respondent is concerned, it appears that on 8.11.2014, the petitioner has filed certified copy of the deed of admission and retirement of partnership before this Court, thus the first objection raised is hereby overruled as the certified copy of the said deed has already been produced.

(6) So far as second objection raised by respondent is concerned, no stamp duty as per Indian Stamp (Chhattisgarh Amendment) Act, 2013 was required as the effect of that Act is not retrospective in nature.

(7) After hearing learned counsel for the parties and after overruling those objections raised on behalf of the respondents, I deem it appropriate to appoint Hon'ble Mr. Justice V.K. Shrivastava, who is presently residing at Mridu Villa, opp. State Legal Services Authority,

Warehouse Road, Bilaspur (C.G.) to adjudicate the dispute arises between the parties after complying the provisions of Section 12(2) of the Act, 2015.

(8) Registry is directed to communicate this order to the learned Sole Arbitrator – Hon'ble Mr. Justice V.K. Shrivastava, Former Judge, High Court of Chhattisgarh forthwith to enable him to enter into upon the reference and decide the matter as expeditiously as possible. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-