HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

ARBITRATION APPLICATION NO.147 OF 2016

ORDER:

The applicant herein and the respondent entered into the agreement dated 09.01.2015 which, in clause 18 thereof, provides for arbitration and, thereunder, any dispute, difference, controversy or claim under the contract or pertaining to any transaction shall be resolved by mutual negotiations within fifteen days from the date of receipt of a notification by either party. However any such unresolved dispute, difference, controversy or claim was required to be referred to a Sole Arbitrator to be appointed jointly by the applicant and the respondent, and the provisions of the Arbitration and Conciliation Act, 1996 ("the Act" for short) were to apply.

A counter affidavit is filed by the respondent herein admitting to the existence of the arbitration agreement. The only contention urged in the counter-affidavit is that, since the arbitration clause requires the parties to resolve their disputes through mutual negotiations within fifteen days, the applicant should be relegated to first mutually negotiate with the respondent before he is permitted to invoke the arbitration clause seeking appointment of an arbitrator .

This contention is only noted to be rejected. Clause 18 of the agreement requires disputes to be resolved by mutual negotiations within fifteen days from the date of receipt of a notification by either party, and for unresolved disputes or claims to be referred to

an arbitrator. The applicant herein issued a legal notice to the respondent on 18.05.2015 proposing the name of a retired District Judge as the arbitrator. The fact that the said notice was received is not in dispute. The very fact that the applicant and the respondent have not been able to resolve their disputes by mutual negotiations, for the past more than two years, shows that the issue remains unresolved, in which case Clause 18 would require an arbitrator to be appointed.

I consider it appropriate, therefore, to appoint Sri T. Simhachalam, Retired District Judge, R.K. Towers, 'C' Block, 404, Mayuri Marg, Begumpet, Hyderabad as the arbitrator to adjudicate the disputes in accordance with law. The Learned arbitrator shall fix his remuneration, and incidental charges for the arbitration proceedings, in consultation with the parties. He shall complete the 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. No costs.

RAMESH RANGANATHAN, ACJ

Date: 13.10.2017.

MRKR