

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

ARBITRATION APPLICATION No.40 OF 2015

ORDER:

This application is filed under Section 11(5) and (6) of the Arbitration and Conciliation Act 1996, seeking appointment of an arbitrator on behalf of respondents 1 to 3. The Lease agreement dated 10.01.2008 was entered into between respondents 1 to 3 on the one hand, and the applicants on the other, for grant of leasehold rights for a commercial premises situated at Banjara Hills, Hyderabad. Clause 45 of the lease agreement reads as under:

“In the event of any dispute of difference arising between the lessor and the Lessee(s) hereto concerning or relating to the liability or obligation on the part of any of the parties hereto, they shall resolve the same by negotiations in the event that no resolution are reached by negotiation the same shall be referred to arbitration panel of three arbitrators of whom one shall be appointed by each party and the third appointed by the two arbitrators who shall then act as the presiding arbitrator. The award passed by them shall be final and binding on both the parties. All provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications thereof for the time being in force shall apply accordingly. The arbitration shall be conducted in Mumbai.”

In terms of the arbitration agreement, the applicants have appointed Justice S.S. Parkar, retired judge of the Bombay High Court as their arbitrator. On the ground that the respondent had failed to appoint an arbitrator on their behalf, the jurisdiction of this Court is invoked.

It is necessary to note that the applicants herein had earlier invoked the jurisdiction of the Bombay High Court seeking appointment of an arbitrator, and the said application came to be dismissed by order dated 02.12.2013 holding that no part of the cause of action arose at Mumbai. Consequently the jurisdiction of this Court has been invoked. As the respondents are all residents of Hyderabad, and the subject property is also located at Hyderabad, this Court has jurisdiction to entertain the application.

As the respondents have not appointed any arbitrator on their behalf, I consider it appropriate to appoint Sri Justice R. Kantha Rao, Villa No.80, Richmond Villas, Near Glendel Academy School, Sun City, Bandlaguda Jagir, Hyderabad – 500 086 as the arbitrator on behalf of the respondents. In terms of the arbitration clause in the agreement, both the arbitrators shall appoint a third arbitrator for resolution of the disputes which have arisen between the parties under the lease agreement. The Learned Arbitrators shall fix their remuneration, and the incidental expenses for the arbitration proceedings, in consultation with the parties. The Learned Arbitrators are requested to complete arbitration proceedings, and pass an award at the earliest, preferably within six months from the date of commencement of the arbitral proceedings. They are also requested, to the extent possible, to hold sittings in the mediation centre of the High Court.

The arbitration application is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Date: 21.07.2017.
MRKR