

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

ARBITRATION APPLICATION No.121 2016

ORDER:

This application, under Section 11 (5) of the Arbitration and Conciliation Act, 1996 (for short 'the 1996 Act'), is filed by the applicant seeking appointment of an arbitrator in the place of Sri V.V. Raghavan, who, by his letter dated 09.07.2016, informed the applicant that, owing to his personal inconvenience, he was unable to travel to Mumbai for conducting the proceedings; and he intends to withdraw from the arbitration.

Sri Valluri Mohan Srinivas, Learned Counsel for the applicant, submits that the applicant is ready and willing to have the arbitral proceedings conducted at Hyderabad; and this Court be pleased to consider appointment of a District Judge as the sole arbitrator to resolve the disputes between the parties.

In terms of the purchase order dated 12.01.2011 issued by the respondent to the applicant herein, the latter was required to supply 8 Nos of 690 V Digital VFDs for the 6000 TPD Cement plant being set up at Raghunathapalem village, Mattapally Mandal, Nalgonda District. The said purchase order contains an arbitration Clause. Clause 14 stipulates that any dispute or difference or claim arising out of, or in relation to, the transactions shall be referred to arbitration under the 1996 Act; such arbitration shall take place in Mumbai; and the award of the arbitrator shall be final and binding on the parties.

The respondent is a limited company registered at Hyderabad. In terms of the aforesaid Clause, the applicant nominated Sri V.V.

Raghavan as the sole arbitrator who, by his letter dated 09.07.2016, expressed his inability to conduct the arbitral proceedings at Mumbai. The present application is filed by the applicant seeking appointment of an arbitrator in his place. Sri Valluri Mohan Srinivas, Learned Counsel for the applicant, states that the applicant is ready and willing to have the arbitral proceedings conducted at Hyderabad; and they waive their right to insist that the arbitration be conducted at Mumbai in terms of the aforesaid Clause of the agreement. Neither have the respondents entered appearance through Counsel nor have they chosen to file a counter-affidavit in this application.

As there is an arbitration agreement between the parties, and the arbitrator nominated by the applicant has expressed his inability to hold arbitration meetings at Mumbai, I consider it appropriate to appoint Sri M. Bhaskar (Retired District Judge), H. No.16-2-753/C/1, Plot No.30, Revenue Board Clny, Malakpet, Hyderabad – 36, 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: 15.09.2017
MRKR