

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.No.1 of 2019
in/and
Arbitration Application.No.15 of 2015

COMMON ORDER:

This Arbitration Application is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to resolve the dispute between the applicant and the respondent arising out of the Agreement dt.12.10.2012.

2. Clause 36 of the said Agreement states as under:

“(B) (i) Any dispute, controversy or claims arising out of or relating to this Agreement or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

(ii) If at any time during the progress of Works, PEL feels aggrieved by any action or procedure adopted by the RIL which in the opinion of PEL is not in accordance with this Agreement, then PEL shall first approach the concerned Project in charge of RIL for resolution of the same, and on the failure to resolve which, shall approach the Managing Director in writing, clearly specifying the item/items of dispute for Conciliation, who shall give a decision on the issue within 21 days of receipt of the letter in writing. In the event of the non settlement of the issue even afterwards, the dispute shall be resolved as follows.

(iii) The aggrieved party shall give a notice to the opposite party in writing, specifying the items of dispute and the efforts made till then to resolve the same and the failure of the process to sort out the issues and request for initiation of Arbitration proceedings in accordance with the Arbitration Clause of this Agreement and shall nominate an Arbitrator designate from its side.

(iv) The arbitral tribunal shall be composed of three arbitrators, RIL shall appoint one arbitrator, PEL shall appoint one arbitrator, and the two arbitrators so appointed shall appoint the third arbitrator, who shall act as the coordinator/Umpire. The procedure shall be in accordance with the provisions of the Arbitration and Conciliation act, 1996”.

3. While the applicant has nominated Sri Rishi Kumar Jain as his Arbitrator, the respondent has nominated Hon'ble Sri Justice K.C.Bhanu, Former Judge of High Court of Andhra Pradesh and Telangana as its nominee.

4. Though, there was a suggestion from this Court to both parties to agree on the name of the Presiding Arbitrator, there is no agreement between them and both the parties through their counsel have requested this Court to appoint Presiding Arbitrator.

5. In view of the said submissions of counsel on both sides, Hon'ble Sri Justice Nooty Ramamohana Rao (Retired) is appointed as a Sole Arbitrator to decide the dispute between the applicant and respondent arising out of the Agreement dt.12.10.2012.

6. The Arbitration Application is disposed of with the above directions and I.A.No.1 of 2019 is accordingly ordered. No order as to costs.

7. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

18th April, 2019.

Note: Copy to be marked to
Hon'ble Sri Justice Nooty Ramamohana Rao (Retired),
Plot No.3A, Huda Enclave,
Near Andhra Jyothi Building,
Ashwani Layout, Journalist Colony,
Jubilee Hills, Hyderabad-33.

(B/o)
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