

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

ARBITRATION APPLICATION NO.32 OF 2016

ORDER:

This application is filed, under Section 11(5) and (6) of the Arbitration and Conciliation Act, 1996, for appointment of an arbitrator to adjudicate the disputes between the parties. The lease deed executed at Hyderabad on 07.12.2012, between the applicant and the respondent, contains, in Clause 6, the mechanism for resolution of disputes. Clause 6(b) stipulates that, in the event of any dispute or difference arising out of or in connection with or in relation to any term of this Deed, both parties shall endeavour to settle such dispute or difference by negotiation *inter se* within 15 days, or such extended time as may be mutually agreed, failing which, such dispute or difference shall be referred to a sole arbitrator appointed by the lessee; the place of arbitration shall be at Hyderabad, and the language of arbitration shall be English; and the arbitration shall be in accordance with the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof.

The petitioner's case, in short, is that, despite having issued a notice dated 11.08.2015 calling upon the respondent to take necessary steps for appointing a suitable arbitrator, no arbitrator was suggested; and the applicant had, perforce, to invoke the jurisdiction of this Court.

While the defence taken, in the counter-affidavit filed by the respondent, is that there is no dispute necessitating appointment of an arbitrator, these are all questions which can only be

examined by the arbitrator on the dispute being referred for his resolution. Section 11(6A) of the Arbitration and Conciliation Act, 1996, inserted with retrospective effect from 23.10.2015, requires the High Court to confine its examination only to the existence of an arbitration agreement. Clause 6(b) of the lease deed is the arbitration agreement and, consequently, this Court is obligated to appoint an arbitrator, as the respondents have failed to do so.

Sri P. Hemachandra, Learned Counsel for the respondent, would request this Court to appoint any retired District Judge as the arbitrator. Sri K.B. Ramanna Dora, Learned Counsel for the applicant, readily agrees for such an order to be passed.

I consider it appropriate, in such circumstances, to appoint Sri Patil Vittal Rao, Retired District Judge, H.No.3-3-820/4, Kachiguda, Hyderabad as the arbitrator to resolve the disputes which have arisen between the applicant and the respondent. 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: 02.02.2018.
MRKR