

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN

ARBITRATION APPLICATION No.115 OF 2017

ORDER:

This is an Application for a measure under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act').

2. The Partnership Deed, dated 16.12.2014, as between the parties is placed on record. Clause 20 of that Partnership Deed contains the arbitration clause. It reads as follows:-

20. All disputes between the Partners or between the Partner and the LLP arising out of the LLP Agreement which cannot be resolved in terms of this Agreement each Partner shall appoint one person from each side to resolve the dispute or appoint one common person known to all Partners to resolve the dispute, as mediators. In case the dispute cannot be resolved by the mediator the dispute shall be referred for arbitration as per the provisions of the Act.

3. We have heard Sri A. Venkatesh, learned counsel for the applicants, and Sri Vedula Venkata Ramana, learned Senior Counsel for the respondents.

4. There is no dispute as to the existence of the arbitration agreement. The applicants have suggested an arbitrator. It appears that the said nominee is not acceptable to the respondents. An arbitrator has been nominated by the respondents. This is not acceptable to the applicants.

5. In the aforesaid fact situation, and in view of Section 10 of the Act, a sole arbitrator is required to be appointed. Since the parties are in agreement as to the identity of the arbitrator, this Court has to take requisite measure under Section 11(6) of the Act to make such appointment.

6. In the result, the Arbitration Application is ordered appointing an Arbitrator.

7. Sri N.R.L. Nageswara Rao, former Judge of this Court, is appointed as the Arbitrator to arbitrate on the disputes between the applicants and the respondents and the said arbitrator shall enter on reference and proceed with, as enjoined by the Act.

No order as to costs. Miscellaneous applications, if any, pending in the Arbitration Application, shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 24.08.2018
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