

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

ARBITRATION APPLICATION No.95 OF 2012

ORDER:

This is an application seeking appointment of an Arbitrator for requisite measures under Section 11(4) (5) and (6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act').

2. Perused the application and the counter affidavit of the respondent as well as materials produced therewith. It is not in dispute that the transaction between the parties started with a Memorandum of Understanding dated 19.11.2004. That Memorandum of Understanding did not have an arbitration Clause. The transactions continued under further agreement dated 9.7.2008, which contains the arbitration clause. The pleadings provide the acceptance of agreement as between the parties and the request for appointment of an Arbitrator with mutual consent, in paragraph-4 of the application.

3. Rebutting to that plea, the stand taken by the respondent is that there is no amount due from the respondent and there is no requirement to appoint an Arbitrator.

4. On the basis of the materials on record and on the basis of the pleadings, it is established that there is an arbitration agreement as between the parties and there is a dispute between the parties for settlement of dues.

5. In the result, the Arbitration Application is allowed appointing an Arbitrator.

6. Sri K. Surya Rao, retired District Judge, Visakhapatnam, is appointed as the Arbitrator to arbitrate on the disputes between the

applicant and the respondent and the said arbitrator shall enter on reference and proceed with, as enjoined by the Act.

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

THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 30th August, 2018

pnb

