

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Arbitration Application No.81 of 2017

ORDER:

This application is filed, under Section 11(5) and (6) of the Arbitration and Conciliation Act, 1996, seeking appointment of an arbitrator.

On the basis of the purchase order issued by the respondent, the applicant effected supplies. As no payment was forthcoming from the respondent, the applicant pressed for payment, consequent to which an agreement was entered into between them, on 15.06.2015, at Hyderabad. Clause 6 of the said agreement provides for reference of disputes to arbitration, by a sole arbitrator, to be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The said clause stipulates that the venue of arbitration shall be at Hyderabad, and the language of arbitration shall be in English.

As Sri K.Rajeswara Rao, Learned Counsel for the respondent, was absent when the matter was listed on 05.01.2018, this Court had directed the matter to be listed under the caption "for orders" after Sankranthi Vacation, 2018. Even today, though the application is listed under the caption "for orders", neither is Sri K. Rajeswara Rao, Learned Counsel for the respondent, present nor is there any representation on his behalf.

As the respondent has failed to submit his reply to the legal notice issued on behalf of the applicant, and has also not filed their counter-affidavit to this application, the fact that there exists an agreement, containing an arbitration clause, is not in dispute. As all other questions, in view of Section 11(6A) of the Arbitration

and Conciliation Act, 1996 other than existence of an arbitration agreement, are required to be examined only by the arbitrator, and as it is evident that there exists an arbitration clause in the agreement, I consider it appropriate to appoint Sri T.Ashok Kumar, Retired District Judge, R/o.101, Bapuji Nagar, Habsiguda, Ratna Nidhi Residency, Hyderabad, as the sole arbitrator to resolve the disputes between the parties. The 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 also to hold sittings, as far as possible, in the mediation centre of the High Court.

The Arbitration Application is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ

Date:25.01.2018.

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