THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION No.10 of 2018

ORDER:

This is an application for appointment of an Arbitrator under Section 11 (5) & (6) of the Arbitration and Conciliation Act, 1996.

It is the case of the applicant that he is engaged in construction business. The first respondent, who is the absolute owner of the house bearing No.1-5-192, admeasuring 464.75 square yards, situated at Kaman locality, Karimnagar, entered into a Registered Development Agreement-cum-General Power of Attorney with the applicant on 18.03.2009, for construction of a building by dismantling the said house. Since disputes arose between the parties, the applicant got issued a legal notice dated 27.10.2017 to the respondents invoking the arbitration clause and nominating a retired District Judge as an Arbitrator. In response, the respondents got issued a reply dated 17.11.2017 accepting the applicant's offer to refer the dispute to an Arbitrator, but suggesting the name of a technical person as an Arbitrator. As the name suggested by the respondents is not acceptable to the applicant, he filed this application.

The respondents have filed a counter affidavit *inter alia* stating that apart from the legal aspects, technical aspects also need to be looked into.

Heard both sides and perused the record.

The Development Agreement-cum-General Power of Attorney, dated 18.03.2009, entered between the parties is placed on record. Clause 3 thereof contains the arbitration clause, which reads as under:

> *"That it is agreed by the parties hereto that the proposed development activity will not be stopped or hindered for any reason whatsoever, and that in case there are any disputes between the two parties hereto the same will be settled amicably amongst themselves or in the presence of an Arbitrator who will be a person appointed for the purpose with the consent of both the parties hereto, this condition will not cover if any hindrances beyond the control of both the parties are caused."*

There is no dispute as to the existence of the arbitration agreement. The applicant has nominated a retired District Judge as an arbitrator. It appears that the said nominee is not acceptable to the respondents and they have nominated a technical person. This is not acceptable to the applicant. As there is no consensus between the parties for appointment of an Arbitrator, this Court is of the opinion that a sole Arbitrator is required to be appointed.

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

Sri Justice Neelam Sanjiva Reddy, (Retd.) Judge of the High Court of A.P., is appointed as the Arbitrator to arbitrate on the disputes between the applicant and the respondents and the said arbitrator shall enter on reference and proceed with, as enjoined by the Act. However, the learned Arbitrator can take the assistance of a technical person, if required.

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

A. RAJASHEKER REDDY, J

Date: 19.11.2019
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