

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

ARB.APPLN.No.27 of 2019

O R D E R:

Heard counsel for the applicant and counsel for the respondent.

2. This Arbitration Application is filed seeking appointment of an Arbitrator for resolution of disputes between the applicant and the respondent arising out of the Agreement dt.07.02.2011.

3. Clause 19.13 contains the arbitration clause and states that all the arbitrations and relates issues shall be handled and construed as per the Indian Contract Act, 1872 and Indian Arbitration & Conciliation Act, 1996.

4. After disputes arose between the parties, on 12.06.2017 initially the applicant issued notice under the Insolvency and Bankruptcy Code, 2016 to the respondent and after some correspondence, the applicant did not pursue the same, but issued a notice dt.20.10.2018 invoking the above Arbitration clause contained in the Agreement dt.07.02.2011 between the parties.

5. The respondent though denied the existence of dispute between the parties and also raised the plea of bar of limitation in reply dt.20.11.2018, suggested the name of another Arbitrator and did not accept the names of the persons proposed to be appointed as Arbitrator by the applicant.

6. In the instant case, the dispute between the parties arose on 12.06.2017 and the invocation of the arbitration clause by the applicant was on 20.10.2018, after coming into force of the Arbitration and Conciliation (Amendment) Act, 2015 (Act 3 of 2016 w.e.f. dt.23.10.2015).

7. Sub-section (6)(A) of Section 11 of the Act restricts the power of this Court to examine to only the existence of arbitration clause between the parties. It does not permit this Court to consider the aspects of limitation and existence of live claim.

8 So, this application is allowed and the Hon'ble Sri Justice Nooty Ramamohana Rao(Retired), is appointed as an Arbitrator to decide the disputes between the parties arising out of the Agreement dt.07.02.2011. No order as to costs.

9. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

20th August, 2019.

Note: Copy to be marked to

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B/o (gra)