

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

ARBITRATION APPLICATION No.65 of 2017

ORDER:

By way of this application filed under Section 11 (5 & 6) of Arbitration and Conciliation Act, 1996 (for short "the Act") the applicant seeks appointment of an Arbitrator for resolution disputes arising under the agreement dated 22-04-2015 entered into by and between them.

The case of the applicant is that for execution of sub-contract work, an agreement was entered between the petitioner and the 1st respondent dated 22-04-2015. Since some disputes arose out of sub-contract work, the applicant issued notices dated 08-12-2016, 22-02-2017 by invoking clause No.23 of the sub-contract agreement for appointment of arbitrator. The said clause provides for appointment of arbitrator by each of the parties and the two arbitrators thereafter shall appoint an umpire to constitute the Arbitral Tribunal. The 1st respondent replied by notice dated 06-04-2017 stating that the matter is settled, as such invocation of clause No.23 does not arise. As such the present application is filed for appointment of an arbitrator.

Learned counsel for the applicant submits that there is no basis for the 1st respondent to contend that the dispute is settled and unilateral decision of 1st respondent that dispute settled cannot be taken into account for deciding the application for appointment of arbitrator.

On the other hand, learned counsel appearing for the 1st respondent submits that they have no objection for appointment of an independent arbitrator.

Learned counsel for the applicant also says that the applicant has no objection for appointment of an independent arbitrator, though clause No.23 provides for two arbitrators and umpire.

In view of the facts and circumstances of the case, the arbitration application is allowed appointing Hon'ble Justice Sri B.Seshasayana Reddy as the sole Arbitrator for resolution of dispute(s) between the applicant and respondent, arising out of agreement dated 22-04-2015 in accordance with the provisions and mandate of the Act of 1996. The learned Arbitrator shall be entitled to fees as per the rates specified in the Fourth Schedule to the Act of 1996, inserted by Act 3 of 2016 with effect from 23-10-2015, which shall be borne by both parties in equal measure. No order as to costs.

A.RAJASHEKER REDDY,J

21-10-2019

Nvl



