

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION No.34 of 2018

ORDER :

This Arbitration Application under Section 11 of the Arbitration and Conciliation Act, 1996 (for brevity "the Act") is filed by the applicant seeking appointment of an Arbitrator for resolution of the disputes between the parties as agreed under Clause 22 of the Development Agreement-cum-GPA dt.15.06.2011.

The case of the applicant is that the applicant was the owner and possessor of the Plot No.1077, admeasuring 200 sq. yards in Block No.69 in Sy.No.167 part, 168, 169 part, 176 part, 177 and 178 part, situated at Bachupally Village, Pragathi Nagar, Hyderabad, having purchased the same under a registered Sale Deed bearing Document No.667/1992, dt.13.01.1992. Thereafter, the applicant has entered into a Development Agreement-cum-GPA dt.15.06.2011 vide Document No.5483 of 2011, with the respondent to raise a complex under the name and style of "Sri Sai Nivas" and both the parties have agreed to apportion the constructed area equally in the Cellar Ground + 3 Floors. Accordingly, the respondent has raised constructions consisting of Ground, First, Second and Third Floors and a Supplementary Agreement was entered into on 11.11.2011,

whereby the applicant was allotted Flat Nos.G1, 101 and 302 located on an area of 765 sq. feet, 1,530 sq. feet and 765 sq. feet, respectively, along with two Shops bearing Nos.1 and 2, located in 472.05 sq. feet. Similarly, the respondent was allotted Flat Nos.G2, 201 and 301, located on an area of 765 sq. feet, 1,530 sq. feet and 765 sq. feet, respectively, along with two Shops bearing Nos.3 and 4, located in 481.75 sq. feet. Thereafter, disputes arose between the parties in respect of payment of rents pertaining to a pent house, which was constructed by investing equal share of amount by them. Accordingly, the applicant got issued a Legal Notice dt.31.05.2016, to which the respondent got issued a reply Notice dt.12.07.2016 and the applicant got issued a rejoinder dt.03.02.2017 by invoking Clause No.22 of Development Agreement-cum-GPA dt.15.06.2011, nominating the Arbitrator. As the respondent has not responded to the same, the present Arbitration Application is filed.

Heard learned counsel for the applicant. Despite service of notice, none appears for the respondent and no counter affidavit is filed.

Clause No.22 of the Development Agreement-cum-GPA dt.15.06.2011 provides for an Arbitration, in case of any disputes between the parties, which reads as follows:

“22. In case of any disputes arising between the parties hereto touching these presents, the matter shall be referred to the

arbitrators one chosen by each party and in case of any difference of opinion between such arbitrators, they shall nominate a common umpire and their award shall be final and binding on both the parties and the relevant provisions of the Arbitration Act shall apply.”

In pursuance of the above said Arbitration Clause, the applicant has already issued a Legal Notice dt.31.05.2016 and Rejoinder dt.03.02.2017, nominating Sri S.M. Rafeeq, retired District Judge as Arbitrator, however, there is no response from the respondent. Therefore, the present application deserves to be allowed.

Accordingly, this Arbitration Application is allowed appointing Sri V.V. Raghavan, District Judge (Retd.), Flat No.302, Legends Residency, Street No.2, Shanthi Nagar, Masab Tank, Hyderabad – 500028, as Arbitrator on behalf of respondent and Sri S.M. Rafeeq, retired District Judge, as Arbitrator for applicant, for resolution of dispute(s) between the applicant and respondent, arising out of the Development Agreement-cum-GPA dt.15.06.2011, in accordance with the provisions and mandate of the Act of 1996. The learned Arbitrators 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.

As a sequel, miscellaneous applications pending, if any,
shall stand closed.

A. RAJASHEKER REDDY, J

31.12.2019.

NOTE: Registry is directed to mark a copy of this order to the learned Arbitrators Sri V.V. Raghavan, District Judge (Retd.), Flat No.302, Legends Residency, Street No.2, Shanthi Nagar, Masab Tank, Hyderabad – 500028 and Sri S.M. Rafeeq, retired District Judge.
(B/O)
Msr



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