

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION No.6 of 2017

ORDER:

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

It is the case of the applicant that it is in the business of construction of water supply schemes and sewage treatment plants and water treatment plants. The respondent was awarded a contract for design, construction, equipment supply and installation along with the startup and stabilisation for a period of six months of 30 MLD Sewage Treatment Plant based on USAB Technology by Superintending Engineer (PH), Rajahmundry. The respondent intended to execute the said awarded work in a joint venture, and accordingly, entered into JV-Agreement, dated 16.03.2004, and thereafter, entered into agreements dated 16.11.2004 and dated 15.05.2005 with the applicant. Pursuant to the agreement dated 15.05.2015, the applicant had completed the contract work assigned to it. However, the respondent is liable to pay an amount of Rs.1,20,37,119/- towards balance outstanding amount, to the applicant. In spite of repeated reminders, the respondent did not pay the said amount. Therefore, the applicant got issued a legal notice dated 08.08.2014 invoking the arbitration clause. In response to the same, the respondent got issued a reply dated 18.08.2014 requesting the applicant to forward copies of certain documents. The applicant again got issued legal notices dated 26.08.2014 and 09.09.2014. In response to the same, the respondent got issued reply notices dated 23.09.2014 and

24.11.2014 stating that it is not liable to pay any amount to the applicant. Hence, the applicant filed this application seeking appointment of an Arbitrator in terms of Clause 12.0 of the agreement, dated 15.05.2005.

The agreement dated 15.05.2005 entered between the parties is placed on record. Clause 12.0 thereof contains the arbitration clause, which reads as under:

“All disputes and controversies arising out of the said agreement, which the parties are unable to adjust between themselves shall be finally settled by one or more Arbitrators. Arbitration proceedings shall be held as per law of arbitration at Hyderabad.”

The respondent has not contested the matter. No counter affidavit is filed. There is no dispute as to the existence of the arbitration agreement.

Under such circumstances, sole arbitrator is required to be appointed as it would be the requisite measure in terms of Section 11(5) of the Act.

Accordingly the arbitration application is allowed, and Sri Justice B.Seshasayana Reddy, Retired High Court Judge, is appointed as sole arbitrator to adjudicate the claims and disputes between the parties and to pass an award in accordance with law.

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 proportion.

Interlocutory applications pending, if any, shall stand closed.

No order as to costs.

A. RAJASHEKER REDDY, J

Date: 19.11.2019

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