

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

ARBITRATION APPLICATION No.33 of 2014

ORDER:

This Arbitration Application, under Section 11 (5) (6) of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed by the applicant seeking to appoint an Arbitrator for adjudication of disputes between the parties.

2. The facts of the case, in brief, are that the respondent-company placed work order upon the Applicant Firm for construction of building at the respondent company's site situated at Pashamylaram, Isnapur, Medak District, Hyderabad, vide Work Order, dated 14.05.2007. During execution of work, certain disputes arose between the parties, contract was closed and the Applicant firm demanded amounts for the work done by it. Despite repeated demands, the respondent company does not choose to make the amount. Therefore, the applicant firm got issued Legal Notice on 23.09.2013. It is stated that since the Work Order, dated 14.05.2007 provides for appointment of an Arbitrator, the applicant company proposed one Sri A.S.N.Sastry, to act as Sole Arbitrator. The respondent-company does not consent for appointment of Sri A.S.N.Sastry as an Arbitrator, but got issued reply notice on 23.09.2013 through the Advocate refuting appointment of an Arbitrator. Hence, the applicant firm filed the present Arbitration Application.

3. Heard the learned counsel for the applicant and the learned counsel for the respondent.

4. In the reply notice, dated 21.10.2013 issued the respondent-company, it does not dispute about existence of Arbitration clause in the Work Order. Clause 21 of the said Work Order reads thus:

“All and any disputes which may arise due to any reason whatsoever it may be should be resolved through discussion in a mutually agreeable manner. In the event of failure of the discussions and also which cannot be resolved through mutual negotiations shall be referred to an arbitrator as per the provisions of arbitration and conciliation act of 1996 and shall be resolved as immediately as possible with out any delay. The award of the arbitrator shall be final and binding on both the parties and the persons claiming under them. Work under contract shall continue so far as may be reasonably practical with out causing any suffering to the plant Operation with out causing any suffering to the plant Operation during the arbitration proceedings. The venue for the arbitration shall be Hyderabad only.”

5. Even though this application is pending for last more than four years, learned counsel for the respondent-company seeks time for filing counter. As such, this Court is not inclined to grant time. The respondent-company does not dispute about existence of Arbitration clause, but it is not agreeing for nomination of Arbitrator by the applicant. Therefore, the application filed by the applicant for appointment of an Arbitrator needs to be allowed.

6. Accordingly, the Arbitration Application is allowed appointing Sri Raghavan, Retired District Judge, as the sole Arbitrator for resolution of disputes between the applicant and respondent, arising out of Work Order, dated 14.05.2007, 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. It is open to the respondent-company to file counter before the Arbitrator. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

19th December, 2019

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Date:19.12.2019

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