

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

TUESDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY

**PRESENT
THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY**

I.A.NO: 1 OF 2020

IN

ARBITRATION APPLICATION NO: 69 OF 2019

Between:

M/s Chabbra's Associates, Represented by its Managing Partner Ramesh Chabbra,
S/o.Satish Chander Chabbra, H.No. 11-1-776/14, Chilkaiguda, Secunderabad,
Telangana

....PETITIONER/ RESPONDENT

AND

M/s Amrutha Construction, Rep. by its Managing Partner, Sri G.Raghava Reddy,
S/o.Late Narayana Reddy, R/o. Flat No.502, Adhiti Arcade, Plot No.41, H.No. 10-3-811,
Near Ganesh Mandir, Vijay Nagar Colony, Hyderabad - 500057

...RESPONDENT/ APPLICANT

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to modify the order dated 23/10/2019 in Arbitration Application No.69 of 2019 in terms of limitation, jurisdiction and payment of arbitration fee on the basis of MOU dated 13/01/2015 and other documents filed herein,

This petition coming on for hearing, upon perusing the petition and the affidavit filed in support thereof and upon perusing the order of this Court dated 23/10/19 and upon hearing the arguments of Sri Udaya Bhaskara Rao Pochetti, Advocate for the petitioner and of Sri M.V.Durga Prasad, Advocate for the Respondent.

The Court made the following Order :-

Heard the counsel for the applicant- respondent in this application.

This application is filed to modify the order dated 23-10-2019 passed in Arbitration Application no.69 of 2019. The grounds mentioned in the affidavit in seeking modification of the order, at the outset are touching the merits of the matter which are to be decided by the learned Arbitrator. There is absolutely no merit, much less any ground to modify the order dated 23-10-2019 which was passed on merits.

Curiously, the averments made in the affidavit filed in support of the application are to the effect that the petitioner's firm is a very big firm and even though notice was served in the office, it was not brought to the notice of the managing partner. Whether the firm is big or small or whether a person is big or small it makes no difference when once notice is issued by Court and it is received by the petitioner's firm, it is open for the petitioner to either enter appearance and contest the matter or ignore the same. The personal notice sent by the applicant was served on the petitioner's firm but the same was returned "not claimed" which itself is a deemed service of notice, the postal endorsement thereof is filed into the Court vide USR No.58764 of 2019 on 14-10-2019 by the applicant's counsel.

In the counter filed by applicant-respondent to this application it is stated that the petitioner has filed his preliminary objections to the claim petition filed by the applicant before the learned Arbitrator, which goes to show that this frivolous application is filed only to drag on the matter and gain time. In the objections filed before the Arbitrator in para 4 of the objections it was stated that the staff member of the petitioner – organization has received the notice issued by the counsel for the applicant, but the staff of the petitioner failed to bring it to his notice. Whereas in this application it is stated that the petitioner has not received the notice at all. These are the two contradictory stands of the petitioner from his own pleadings.

It is needless to mention that after 2015 Amendment Act whereby Section 11(6A) was brought in; the jurisdiction of this Court is confined to only examination of existence of an arbitration clause in the agreement and invocation thereof, nothing more and nothing less and leave all matters to be decided by Arbitrator.

It is also very heartening to note that the counsel representing the petitioner ought to have better advised the petitioner as to the legal position in matters of appointment of arbitrator in an application filed under Section 11(6) of the Act.

None appears for the petitioner and there is no representation on his behalf which goes to show that the petitioner does not want to prosecute this application. In the circumstances, there is no other option except to dismiss this application by imposing costs of Rs.20,000 on the petitioner payable to the Telangana State Legal Services Authority, High Court premises, Hyderabad.

The Member Secretary to take necessary steps in the event the costs imposed by this Court is not paid within reasonable time, in accordance with law.

Sd/-M.SANTHI VARDHANI
JOINT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To

1. The Member Secretary, Telangana State Legal Services Authority, High Court premises, Hyderabad.
2. One cc to Sri Udaya Bhaskara Rao, Advocate (OPUC)
3. One cc to Sri M.V.Durga Prasad, Advocate (OPUC)
4. Two CD Copies

Kj.



HIGH COURT

DATED:11/08/2020



ORDER

I.A.NO.1 OF 2020

IN

ARBITRATION APPLICATION No.69 of 2019

Dismissing the application imposing costs.

⑤ VLW
28/8/20