

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

ARBITRATION APPLICATION No.55 of 2018

ORDER:

This Arbitration Application is filed under Section 11(5) and (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a sole Arbitrator to adjudicate the claims and disputes between the applicant and the respondent pursuant to Development-cum-Power of Attorney dated 28.07.2008.

Clause 37 of the said agreement states as under:

“ That it is agreed that in the event of any dispute arising in this agreement or of any clause or clauses within the same, the matter shall first be resolved by mutual discussion and agreement between the designated personnel on either side, and in the event of a continuing and persistent disagreement, the matter shall be referred to arbitration under the auspices of the Indian Arbitration & Conciliation Act, 1996, and that any award passed by the said Arbitrator shall be final & binding on both the parties, and that the costs of thereof shall be borne equally by both parties. The place of Arbitration shall be at Hyderabad, Andhra Pradesh State.”

It is not in dispute that the applicant addressed registered letter dt. 27.01.2018 to the respondent invoking the said arbitration clause and setting out the disputes with the respondent arising out of the said development agreement. They even nominated a retired High Court judge as their arbitrator.

The respondent received the same and in turn replied to it through registered letter dated 14.02.2018 stating that reference can only be made to arbitration after exhausting the remedy of resolution through discussions, and since the said step has not been followed, there cannot be appointment of an arbitrator. Same stand has been taken in the counter-affidavit by the respondent.

In view of the respective submissions on both sides, the petitioners as well as respondents shall nominate their designated personnel to participate in discussions for resolution of the disputes between the parties within one week from the date of receipt of a copy of this order and communicate it to the other party; thereafter the designated personnel of the parties shall try to resolve the disputes between the parties through mutual discussions within four weeks after the appointment of the designated personnel by both sides; and if there is no satisfactory resolution of the disputes between both parties in those discussions within the said period, the matter shall stand referred to Hon'ble Sri Justice S. Ananda Reddy, Former Judge of High Court of A.P, as arbitrator.

The Arbitration Application is disposed of.

Miscellaneous petitions pending, if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

Date: 23.07.2019.

Copy to be marked to:

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B/o
MRKR