

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Arbitration Application No.43 of 2017

O R D E R

The case of the applicant is that he entered into partnership deed dated 01.07.1999 with the respondent for doing partnership business, and clause 14 of the said deed provide for arbitration clause for resolution of disputes arising out of the partnership agreement. As disputes arose, applicant herein issued notice dated 09.01.2017 to the respondent for appointment of an arbitrator for resolution of dispute, and the same was served on the respondent on 11.01.2017. As there was no response from the respondent in spite of service of notice, he filed the present application under Section 11(5) and (6) (a) of the Arbitration and Conciliation Act, 1996, read with Section 3(i)(d) of the Scheme for Appointment of Arbitrators, 1996, seeking appointment of a sole arbitrator to adjudicate the claims and to settle the disputes between the parties in terms of clause 14 of the conditions of partnership deed dated 01.07.1999.

No counter affidavit is filed.

Heard the learned counsel for the applicant.

Ms. Rubiana S.Khaton, learned counsel appearing for the respondent submits that the respondent is not in touch with her, and she is trying to contact him for instructions.

Clause 14 of the partnership deed dated 01.07.1999 reads as under:

“Arbitration: All disputes and questions in connection with the partnership or this deed arising between the partners or between any of them and the third party or parties may be settled by arbitration under the provisions of the Indian Arbitration Act, then in force.”

The case of the petitioner is that as disputes arose out of the partnership agreement, he issued legal notice dated 09.01.2017 invoking the arbitration clause and the same was served on the respondent on 11.01.2017.

The above assertion of the petitioner has not been denied by the respondent by filing any counter affidavit.

In view of the facts and circumstances of the case, and Clause 14 of the Partnership Deed and though notice is served, as the respondent did not come forward for appointment of an arbitrator for resolution of dispute arising out of the partnership agreement, and as he also did not chose to file any counter affidavit contradicting the case of the petitioner, this court is inclined to allow the arbitration application.

Accordingly the arbitration application is allowed, and Sri Justice B.Seshasayana Reddy, former Judge of the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, 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:20-11-2019

Note:

Mark a copy of this order to:
Sri Justice B.Seshasayana Reddy,
former Judge of the erstwhile
High Court of Judicature at Hyderabad
for the State of Telangana
and the State of Andhra Pradesh,
R/o H.No.10-1-128/1/1, Rajasree Residency,
Flat No.201, 2nd floor, Paradise Hotel Line,
Masabtank, Hyderabad – 500 0028.

B/O
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