

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

ARBITRATION APPLICATION No. 8 OF 2015

ORDER :

When the matter is listed on 26.11.2019, there is no appearance on behalf of the applicant and this Court posted the matter to this date under the caption 'for dismissal' recording the submissions of the learned counsel for respondent which reads as follows;

“Learned counsel for the respondent submits that the respondent filed Civil Suit No.607 of 2013 for recovery of certain amounts. In that suit, the applicant filed application under Section 8 of the Arbitration and Conciliation Act stating that the suit is not maintainable as there is arbitration clause in the agreement, but the said application was dismissed. Without disclosing the said fact, the present application under Section 11 of the Act is filed for appointment of arbitrator. He also submits that there is no valid and subsisting arbitration clause in the agreement. He further submits that when there is no existence of arbitration clause in the agreement between the parties, the petition is not maintainable.”

Now counter affidavit is filed by the respondent to the same affect.

Learned Counsel for the applicant, now, wants to withdraw the application and seeks time for getting instructions.

But the fact remains that the respondent filed counter affidavit along with order passed by the Civil Court in CS.No.607/2013,

dated 12.12.2014, which goes to show that the application filed by the applicant herein under Section 8 of the Arbitration and Conciliation Act is dismissed. The said fact is not disclosed by the applicant in the present Arbitration Application, which is nothing but suppression of fact. Though counter is filed in the year 2015, no reply affidavit is filed by the applicant disputing the same. Since the respondent has no objection for withdrawing this application, petitioner is permitted to withdraw the Arbitration Application.

However, this Court cannot encourage this type of frivolous applications filed by the parties suppressing the facts.

In view of the same, the applicant is permitted to withdraw the application subject to payment of costs of Rs.5,000/- to the credit of Telangana State Legal Services Authority, Hyderabad. If the same is not paid by the applicant, it is open for the said authority to recover the same, in accordance with law.

As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

27.11.2019
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