

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

ARBITRATION APPLICATION NO.109 OF 2018

ORDER

The applicant seeks appointment of a sole Arbitrator to adjudicate his claims against the respondents, quantified at over Rs.1,98,84,800/-, under Section 11(5) & (6) of the Arbitration and Conciliation Act, 1996 (*for brevity*, 'the Act of 1996'). The applicant is a partner of M/s.Green Leaf Ventures, the first respondent partnership firm. The other respondents are the remaining partners of the firm. His claims relate to the business of this partnership firm. He addressed legal notice dated 27.03.2018 invoking the arbitration agreement in Clause 20 of the Deed of Partnership dated 10.03.2016. Reply legal notice dated 09.04.2018 was issued by the first respondent firm, speaking for itself and the second and third respondents, denying the applicant's claims and raising counter claims against him. It is in these circumstances that the applicant filed the present application.

Notice having been ordered on this application on 12.10.2018, Sri N.Harinath, learned counsel, entered appearance for the third and fifth respondents. Despite service of notice, the first, second and fourth respondents did not choose to engage counsel or contest this application.

In terms of Section 11(5) & (6) of the Act of 1996, as amended by Act 3 of 2016 with effect from 23.10.2015, in an arbitration with a sole Arbitrator, if the parties fail to agree on the arbitrator within thirty days of receipt of a request by one party from the other party to so agree, the appointment shall be made, upon request of a party, by the High Court or any person or institution designated by such Court. As this Court is given the provision to deal with applications under Section 11 of the Act of 1996 by the Hon'ble The Chief Justice, High Court of Telangana, it would be within its power to undertake the exercise contemplated by Section 11(5)

& (6) of the Act of 1996. As per Section 11(6A) of the Act of 1996, which was inserted therein by Act 3 of 2016 with effect from 23.10.2015, the High Court, while considering an application under Section 11(5) & (6) of the Act of 1996 shall confine itself to examination of the existence of an arbitration agreement and no more.

Clause 20 of the Deed of Partnership dated 10.03.2016 reads thus:

'20) In case of any disputes arising among the partners, the same shall be referred to an arbitrator and the decision of the arbitrator shall be final and binding on partners.'

As it is an admitted fact that the applicant is one of the partners of the first respondent firm and in the light of the clear existence of an arbitration agreement, he is entitled to seek resolution of his claim against the first respondent firm and the other partners by way of arbitration.

The Arbitration Application is accordingly ordered appointing Sri Justice L.Narasimha Reddy, Former Chief Justice, Patna High Court, residing at House No.2-2-25/3/3, Durgabai Deshmukh Colony, Near Osmania University Campus, Baghamberpet, Hyderabad-500013, as the sole Arbitrator for resolution of the disputes between the applicant and the respondents, arising out of the Deed of Partnership dated 10.03.2016, 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. No order as to costs.

SANJAY KUMAR, J

20th FEBRUARY, 2019

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