

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**ARBITRATION APPLICATION No.137 of 2018**

**ORDER :**

This application is filed under Section 11(5) of Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to decide the dispute between the applicant and the respondent arising out of and in relation to the agreement dt.25-04-2014 entered into between the parties.

2. The applicant contends that the applicant had booked a flat to be constructed by respondent in the property of M/s.Kalajyothi Process Pvt. Limited and though possession of the apartment booked by the applicant was to be delivered within 24 months + six months grace period from the date of booking i.e. 25-04-2014, the respondent has not delivered the apartment even though the applicant was willing to pay the balance consideration payable.

3. Learned counsel for respondent contended that M/s.Kalajyothi Process Pvt. Limited is also a party to the agreement of sale dt.25-04-2014 along with respondent and the applicant, and that the applicant had not chosen to give any notice for appointment of Arbitrator to M/s.Kalajyothi Process Pvt. Limited.

4. Learned counsel for applicant refuted the said contention and stated that he had no grievance against M/s.Kalajyothi Process Pvt. Limited, and the flat in question, which is supposed to have been delivered to the applicant, is now claimed by respondent to have fallen

to its share and there is no necessity therefore to make M/s.Kalajyothi Process Pvt. Limited also a party to the arbitration.

5. I find considerable force in the contention of the learned counsel for the applicant.

6. Therefore the objection raised by the respondent to the appointment of Arbitrator under the agreement dt.25-04-2014 is rejected, and the applicant is allowed appointing Sri V.V.Raghavan, Retired District Judge as the sole Arbitrator to decide the dispute between the parties arising out of and in relation to the agreement dt.25-04-2014 executed between the parties.

7. As a sequel, miscellaneous petitions, if any pending, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 22-04-2019

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