

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION No.2 of 2018

ORDER :

This Arbitration Application under Section 11 of the Arbitration and Conciliation Act, 1996 (for brevity "the Act") is filed by the applicant seeking appointment of an Arbitrator for resolution of the disputes between the applicant and the respondents arising out of Memorandum of Understanding (M.O.U), dated 08-03-2017.

In this Arbitration Application, the applicant is represented by his G.P.A. holder, who is his brother, by name S.Surender Reddy.

The case of the applicant is that he has entered into Memorandum of Understanding on 8-03-2017 with the respondents in respect of land admeasuring Ac.29-00 guntas in Sy.No.103/17 to 103/19 situated at Bandlaguda, Hyderabad. Under the said tripartiate agreement, the agreement holders, the applicant and others along with one Srisailam Reddy and others have agreed with respondents that whenever the subject land is developed or sold, the respondents shall pay a sum of Rs.17,00,00,000/- to the Applicant. Under the said tripartiate agreement, the applicant agreed to surrender the original registered sale deeds pertaining to individual plots admeasuring 18000 square yards to the respondents and he shall not claim any

right or claim over the said land and in the process of working out of M.O.U, disputes arose between the parties regarding payment of amount. As such, the applicant issued notice dated 09-12-2017 invoking the arbitration clause in the said M.O.U. Though the respondents received the notice, they have not replied. As such, the present application is filed.

During the pendency of the Arbitration Application, the applicant died and his Legal representatives were brought on record.

The respondents have filed counter affidavit disputing the claim of the applicant. But, however, the counter affidavit does not dispute execution of M.O.U. It is also stated in the counter that civil suit in O.S.No.751 of 2017 on the file of XI Additional Chief Judge, City Civil Court is pending in respect of subject land.

Heard learned counsel for the applicant.

Learned counsel for the respondents submits that the M.O.U is based on tripartiate agreement, but the same is not placed before this Court. He also submits that the tripartiate agreement does not contain arbitration clause.

In this case it is to be seen that execution of M.O.U dated 08-03-2017 is not disputed. The said M.O.U provides for Arbitration Clause, the relevant portion of which reads as under:

9. In the event if any disputes arise between the Parties herein with regard to interpretation of clauses or

otherwise, the matter shall be referred to sole Arbitrator, who shall be not below the rank of retired High Court Judge, who shall be appointed at the discretion of the Second Party and the proceedings shall be commenced as per the provisions of the Arbitration and Reconciliation Act, 1996. The jurisdiction shall at Hyderabad.

10. The second Party agreed to honour all the postdated cheques issued to the First Party under this MOU without deviating from its obligations. In the event, if any of the cheques is dishonoured, the First Party would be at liberty to invoke the arbitration clause.”

In pursuance of the said Arbitration Clause, the applicant has already issued a Legal Notice dated 09-12-2017, but there is no response for the same. Even in the counter affidavit also, there is no dispute with regard to execution of M.O.U as referred to above. Learned counsel for the respondents also does not dispute about the execution of M.O.U. In fact he submits that the respondents paid amount of Rs.4.5 crores, but the applicant has not surrendered the land. The same is disputed by learned counsel for the applicant, which goes to show that dispute exists between the parties. In view of the same, the application needs to be allowed.

Accordingly, this Arbitration Application is allowed appointing Sri Justice V.V.S.Rao, retired High Court Judge, R/o. H.No.165/3, Street No.6, Baghlingampally, Hyderabad-44, as the sole Arbitrator for resolution of dispute(s) between

the applicant and respondents, arising out of Memorandum of Understanding, dated 08-03-2017 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.

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

A. RAJASHEKER REDDY, J

03-01-2020

Note:

Office to mark a copy to:

Sri Justice V.V.S.Rao,

Address: H.No.165/3, Street No.6,

Baghlingampally,

Hyderabad.

Cell Nos 9440621413, 986601993.

B/o.

Nvl

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