

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY**

PRESENT

THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION NO: 59 OF 2020

Between:

M/s Link Transport Co, Represented by its Proprietor, Mr. Rami Reddy, S/o Narasimha Reddy, Aged 55, Plot No. 45, Road. No. 08, rd Phase, SVCIE, Balanagar, Hyderabad-500037
...APPLICANT

AND

M/s Arch Pharma Labs Ltd, Sy No. 323, Gundlamachunoor, Hatnoora Mandal, Sangareddy District Telangana – 502319
...RESPONDENT

Arbitration Application Under Section 11 (5) & (6) of Arbitration and Conciliation Act 1996 R/w. Scheme for Appointment of Arbitrator , 1996 praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to appoint a Sole Arbitrator for the purpose of adjudication of the disputes that have arisen between the Petitioner and the Respondent under Agreement Dt- 16/04/2012 and renewed latest on 20/01/2017 for settlement of accounts and to determine the amount receivable by the petitioners from the Respondents and other incidental reliefs.

Counsel for the Applicant :SRI V. SEETHARAMA AVADHANI

Counsel for the Respondent: SRI D. NARENDAR NAIK

The Court made the following: ORDER

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Arbitration Application No.59 of 2020

ORDER:

This application is filed under Section 11(5) & (6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act'), seeking to appoint an arbitrator for adjudication of disputes between the petitioner and the respondent by virtue of Clause 24 of the agreement dated 20.01.2017.

2. The brief facts of the case are that the applicant and the respondent had entered into Staff Buses Agreement dated 16.04.2012 and the same was renewed on 20.01.2017 and thereafter, the respondent had stopped paying the bills and as such, the applicant issued notice dated 14.10.2019 invoking the arbitration clause. It is further stated that though said notice was served on the respondent, there was no response from it. Hence, the present application is filed.

3. The respondent filed counter-affidavit stating that notice dated 14.10.2019 issued by the applicant was in the form of a demand notice for payment of certain amounts allegedly due by the respondent and it is not a notice invoking arbitration under Section 21 of the Act and that the applicant failed to issue notice invoking arbitration clause. It is further stated that as per clause 24 of the agreement, if both parties failed to settle the dispute amicably, the dispute shall be referred to arbitration, but the applicant has bypassed the statutory pre-condition as well as the contractual pre-condition and hence, the arbitration application is not maintainable.

4. Learned counsel for the applicant submits that as the respondent has not submitted any reply to the notice dated 14.10.2019 disputing the

existence of arbitration clause and even in the counter-affidavit also, there is no dispute with regard to existence of arbitration clause, this application may be allowed by appointing an arbitrator.

5. Learned counsel for the respondent submits that when there is no invocation of arbitration clause, the present application is not maintainable. He also submits that the petitioner has not made any effort for amicable settlement, and as such, the application is liable to be dismissed.

6. A reading of notice dated 14.10.2019 goes to show that the applicant has demanded the respondent to pay a sum of Rs.20,09,108/- towards arrears within 7 days, reserving right to initiate arbitration proceedings as per clause 24 of the agreement dated 20.01.2017, and that even according to the applicant, no further notice was issued and as such, there is no invocation of arbitration clause and even there is no demand made by the applicant for amicable settlement.

7. In view of the above, this Court is of the opinion that the arbitration application is premature and accordingly, the Arbitration Application is dismissed. However, this order will not prevent the applicant from invoking the arbitration clause by following due process as envisaged under Clause 24 of the agreement.

8. As a sequel thereto, miscellaneous applications, if any, pending in the Arbitration Application shall stand dismissed.

Sd/-M.SANTHI VARDHANI
JOINT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To

1. One CC to SRI. V SEETHARAMA AVADHANI Advocate [OPUC]
2. One CC to SRI. D NARENDAR NAIK Advocate [OPUC]
3. Two CD Copies

JH2

HIGH COURT

ARRJ

DATED:02/12/2020



ORDER

ARBITRATION APPLICATION
No.59 of 2020

DISMISSING THE ARBITRATION APPLICATION.

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21/12/20
Jtvt