

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

MONDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION NO. 82 OF 2015

Between:

1. Sri Vucha Rama Vara Prasad, S/o. Late Sri V. Y. Nadhaji, Aged: 41 years, Occ: Pvt. Service,
 2. Smt V. Anupama Rao, W/o. Sri Vucha Rama Vara Prasad, Aged: 38 years, Occ: Private Service,
- Both are R/o. Plot No. 28, Tirumala Nagar Colony, Meerpet, Moulali, Hyderabad - 40

...Petitioners/Applicants

AND

1. Sri Javed Razack, S/o. Sri Abdul Razack, Aged about: 61 years, Occ: Business, R/o H. No. 6-1-289, Casa Rosa, Padmarao Nagar, Secunderabad.
2. M/s. Rock Wood Steel, represented by its partner Sri Lan. Saamanth, S/o. Sri. L. K. Natarajan, Aged about: 51 years, Occ: Business partner,
3. Sri Vasant Kulkarni, S/o. Sri Manohar Rao Kulkarni, Aged about: 50 years, Occ: Business partner,
4. Sri Sunil J. Sachdev, S/o. Sri Jayantilal L. Sachdev, Aged: 55 years, Occ: Business partner.

Respondents 2 to 4 are R/o. H.No. 3-6-175, Hyderguda, Hyderabad.

Respondent No.4 is dismissed vide Court Order dated 28.11.2020.

Official address of Respondents 2 to 4 is at H.No.4-4-932/1 to 3, Kanda Swamy Lane, Opp. Hanuman Vyayamsala School, Sultan Bazaar, Hyderabad - 500095.

...Respondents

Arbitration Application under Section 11 (2) and (6) of the Arbitration and Conciliation Act, 1996, and Scheme for Appointment of Arbitrators 2000, praying that for the reasons stated in the affidavit filed therewith the High Court may be pleased:

- I. To appoint an arbitrator to adjudicate the claims and disputes between the Petitioners/Applicants and Respondents.
- II. To Award the costs of Application

The Petition coming on for hearing, upon perusing the Application and affidavit filed in support thereof and upon hearing the arguments of Sri D. Madhava Rao, Advocate for the Applicants and the Respondent Nos. 1 to 3 not appeared in Person or represented by Advocate.

The Court made the following ORDER:

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Arbitration Application No.82 of 2015

ORDER:

This application is filed under Section 11(2) & (6) of the Arbitration and Conciliation Act, 1996 r/w Scheme for Appointment of Arbitrators, 2006, seeking to appoint an arbitrator to adjudicate the claims and disputes between the applicants and respondents.

2. The brief facts of the case are that the applicants had entered into an agreement of sale with respondent Nos.2 to 4 on 09.01.2009, with respect to petition schedule property, for consideration of Rs.46,45,000/- and they paid 90% of sale consideration to respondent Nos.2 and 3, but as the respondents have neither completed the flat in all aspects nor registered the same in their favour, there were exchange of notices between the parties, but in spite of the same, respondent Nos.2 and 3 have not executed the registered sale deed in favour of the applicants and as such, the applicants got issued notice dated 06.06.2015 invoking arbitration clause. The respondents have not filed any reply to the said notice. Hence, the present application is filed.

3. Heard learned counsel for the applicants. As notices sent to respondent Nos.1 to 3 at the address mentioned in the sale agreement were returned with an endorsement that 'no such person', the notices were deemed to have been served upon them. Since respondent No.4 died during pendency of the present application, the Arbitration Application was dismissed against him on 28.11.2020.

4. The sale agreement dated 09.01.2009 contains arbitration clause-28, which reads as under;

"All disputes under this Agreement shall be referred to arbitration of one or more persons and the Award of arbitrator shall be final and binding

over all the parties/all disputes hereunder, shall be subject to the jurisdiction of the Courts of Hyderabad".

5. Learned counsel for the applicants submits that the applicants have invoked arbitration clause by issuing notice dated 06.06.2015, to respondent Nos.1 to 3 at the address given by them in the sale agreement, but said notices were returned with an endorsement that "no such person". In view of same, notices deemed to have been served upon them. He also submits that one of the purchasers from respondent No.2 filed Arbitration Application No.19 of 2014 and the same was allowed on 06.06.2014, nominating the arbitrator.

6. In view of the fact that the existence of arbitration clause is not disputed by the respondents by filing any reply to the arbitration notice dated 06.06.2015, and notices taken to respondents in this application on the address given in sale agreement were returned with endorsement that 'no such person' as such deemed to be served, which shows existence of arbitration clause is not disputed, as such the Arbitration Application needs to be allowed and the same is accordingly allowed, nominating Sri G. Gopala Krishna Murthy, Retired District Judge, to arbitrate on the disputes between the applicants and respondent Nos.1 to 3.

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

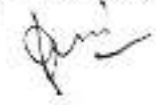
SD/- K. GANGADHARA RAO
JOINT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. Sri G. Gopala Krishna Murthy, Retired District Judge, H.No.3-4-756/1, Flat No. 102, Sai Raghavendra Residency, Barkatpura, Hyderabad - 500067.
(Along with Material Papers) (Special Messenger)
2. One CC to Sri D. Madhava Rao, Advocate [OPUC]
3. Two CD Copies

MP 

HIGH COURT

DATED:28/12/2020



ORDER

ARB.APPL.No.82 of 2015

ALLOWING THE ARBITRATION APPLICATION

SSV
4 copies
Dt 23/01/2021