

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

ARBITRATION APPLICATION No. 41 OF 2016

ORDER :

This application is filed under Section 11(5) and (6) of the Arbitration and Conciliation Act, 1996 (*for short 'the Act'*) read with Scheme for Appointment of Arbitrator to resolve the disputes between the Applicants and the Respondents arising out of the Memorandum of Understanding dt.18.07.2009 entered into between them.

The aforesaid Memorandum of Understanding provides for Arbitration Clause which reads as follows;

“That it has been resolved and agreed by the parties herein that Sri A.V.Sadasiva, Chartered Accountant, shall be the sole arbitrator under the Indian Arbitration Act, 1996 to settle and resolve all the issues and other related issues which arise from time to time or for interpretations of any clause or subject as the case may be or to add any other further clauses to this Memorandum of Understanding and his decision and finding shall be final and binding on the parties herein and it is not open to the parties to question the same.”

It is stated by the learned counsel for the respondents that the arbitrator named in the aforesaid Memorandum of Understanding entered into reference and subsequently withdrew on 17.02.2016 by issuing a letter; that the claim of the Applicants is also for appointment of Arbitrator, since the aforesaid named Arbitrator withdrew from the Arbitration; and that the respondents are agreeable for appointing of arbitrator.

Though counter affidavit is filed by the respondents, existence of arbitration clause in the Memorandum of Understanding is not disputed by them. But, however, the contents of the counter shows that the respondents were also having counter claim which goes to show that disputes are in existence between the parties. As the Arbitration Clause is in existence and also disputes arise between the parties, this Court is of the opinion that the application needs to be allowed.

Accordingly, the application is allowed appointing Hon'ble Sri Justice M.Venkateswara Reddy, Retired High Court Judge, as the sole Arbitrator for resolution of dispute(s) between the applicants and respondents, arising out of the Memorandum of Understanding dt.18.07.2009 entered into between the Applicants and the Respondents 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.

A.RAJASHEKER REDDY, J

02-01-2020

Note:

Mark a copy to:

Honourable Sri Justice M.Venkateswara Reddy,
Villa No.1, Maple Town-1,
Sun City, Bandlaguda Jagir,
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B/o.tk

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