

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE NINETEENTH DAY OF MAY
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

ARBITRATION APPLICATION Nos : 72 and 73 OF 2018

Arbitration Application No. 72 of 2018

Between:

Athaulah Khan Rizwan, S/o. Md. Nasrullah Khan R/o. 9-4-77/A/28, Plot No.28, Al-Hasanath Colony, Tolichowki, Hyderabad.

...APPLICANT

AND

M/s. Aliens Smart City Private Limited, Sy.No.384/385, Tellapur, R.C. Puram, Ranga Reddy District, T.S. Rep. by its Director- Mr.Harichalla

...RESPONDENT

Arbitration Application Under Section 11 (6) of the Arbitration and Conciliation Act, 1996 praying that this Hon'ble Court may be pleased to appoint the sole arbitrator a Retired Subordinate Judge or any other Judge as envisaged under Section 11 (6) of the Act for deciding the dispute in the present matter as agreed under Clause 15 (5) of the Agreement of Sale Deed dated 16/11/2012 in the interest of justice.

Counsel for the Applicant: SRI I. RAMESH

Counsel for the Respondent: SRI P. RAJA SRIPATHI RAO

Arbitration Application No. 73 of 2018:

Between:

Hidayathullah Khan, S/o. Md. Nasrullah Khan, R/o. 9-4-77/A/28, Plot No.28, Al-Hasanath Colony, Tolichowki, Hyderabad.

...APPLICANT

AND

M/ s. Aliens Smart City Private Limited, rep by its Director Hari Challa and having his office at Sy.No.384/385, Tellapur, R.C. Puram, Ranga Reddy District, T.S.

...RESPONDENT

Arbitration Application Under Section 11 (6) of the Arbitration and Conciliation Act, 1996 praying that this Hon'ble Court may be pleased to appoint the sole arbitrator, a Retired Subordinate Judge or any other Judge as envisaged under Section 11(6) of the Act for deciding the dispute in the present matter as agreed under Clause 15 (d) of the Agreement of Sale Deed dated 16/11/2012 in the interest of justice.

Counsel for the Applicant: SRI I. RAMESH

Counsel for the Respondent: SRI P. RAJA SRIPATHI RAO

The Court made the following COMMON ORDER:

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Arbitration Application Nos.72 and 73 of 2018

COMMON ORDER

The issue involved in both the applications is one and the same, and hence, they are heard together and are being disposed of by this common order.

The respondent in both the applications is M/s Aliens Smart City Private Ltd., and it is represented by its Director Mr. Harichalla. The case of applicants is that the respondent claimed that he is the owner and possessor of the subject property and after receipt of the entire sale consideration from them, entered into agreements of sale dated 16.11.2012, agreeing to develop the subject property and to execute the sale deeds. But the respondent failed to develop the subject land as agreed, and also failed to return the entire amount in spite of several requests. Therefore, the applicants got issued legal notices dated 06.05.2018 invoking arbitration Clause 15(d) under the agreements. Despite receipt of notice, as the respondent failed to respond, the present arbitration applications have been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint a retired Subordinate Judge, as a sole Arbitrator to decide the disputes between the parties arising out of the agreements of sale dated 16.11.2012.

Though notice is served, and respondent in both the applications is represented through a counsel, no counter affidavit is filed.

Heard both the counsel.

The arbitration clause in both the agreements dated 16.11.2012 is identical. Hence, for convenience, the Clause 15(d) & (c) in the agreement in A.A.No.72 of 2018 is extracted as under for ready reference:

"15. Arbitration and Applicable laws and jurisdiction.

- (d) However, disputes or differences arising out of and or in connection with and or in relation to this transaction/agreement, which could not be amicably settled within a period of 30 days shall be finally decided and resolved by an Arbitrator (Sole Arbitrator) appointed by Vendor in accordance with the provisions of the Arbitration and Conciliation Act, 1996. Arbitration as aforesaid shall be a domestic arbitration under the applicable laws.
- (c) That the venue of arbitration shall be at Hyderabad and the language for the Arbitration proceedings shall be English.

A reading of clause (d) of the above arbitration agreement shows that if the differences arising out of the agreement could not be amicably resolved, the same shall

be resolved by an arbitrator. The case of the applicants is that the respondent failed to develop the subject land as per the agreement, and in spite of several requests, failed to return the consideration paid by them. Therefore, they issued arbitration notice dated 06.05.2018 and as the respondent failed to respond, filed the present application.

Having regard to the averments made in the arbitration applications and as the existence of arbitration clause is not disputed by the counsel for the respondent, the arbitration applications deserve to be allowed.

For the foregoing reasons, both the arbitration applications are allowed.

Sri Narasimha Chary, Retired Senior Civil Judge, is appointed as sole arbitrator in both the applications, to resolve the disputes between the parties and to pass separate awards in accordance with law.

The learned Arbitrator is 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, in both the applications, which shall be borne by the respective parties in equal shares.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

Before parting with the case it is made clear that all the issues are left open to both the parties to agitate before the learned Arbitrator, and the said Arbitrator shall pass award on merits and in accordance with law, uninfluenced by any finding or observation, if any, made in this order.

//TRUE COPY//

SD/-B.S.CHIRANJEEVI
JOINT REGISTRAR

SECTION OFFICER

To

1. Sri Narasimha Chary, Retired Senior Civil Judge, H.No. 2-2-18/18/3/3, Flat No. 101, Raja Gruha Apartments, C 32/8, Durgabai Deshmukh Colony, Hyderabad 500 013. Cell No. 8074924976 / 9848128575 (By Special Messenger) (along with a copy of both Arbitration Applications affidavits and material papers filed with A.As.)
2. One CC to Sri I. Ramesh, Advocate [OPUC]
3. One CC to Sri. P. Raja Sripathi Rao, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

DATED: 19/05/2020



COMMON ORDER

ARBITRATION

APPLICATION Nos.72 and 73 of 2018

ALLOWING THE BOTH

ARBITRATION APPLICATIONS

5^{SV} copies
Dt 14/7/2020