

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION No.106 of 2014

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 respondent arising out of the Fuel Supply Agreement dated 01-04-2010.

It is the case of the applicant that when disputes arose as the respondent has not complied with terms and conditions of the agreement stated supra, the applicant issued notices on 14-07-2011 and 15-09-2012 directing the respondent to payment of Rs.71,51,792.01 paise for short lifting of coal in the year 2011. As the respondent has not paid the amount inspite of several reminders, the applicant again issued notice on 22-01-2014 invoking arbitration clause contained in the said agreement by nominating the Arbitrator. In spite of service of the same, there is no response from the respondent. Hence the present application is filed.

Though notice is served, no counter affidavit is filed opposing the application and there is no appearance for respondent.

It is to be seen that clause No.13.0 of Fuel Supply Agreement, dated 01-04-2010 provides arbitration clause, which reads as under:

“ Any difference or dispute arising between the Parties under this Agreement shall be settled through arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996. In such event the Tribunal shall consist of three arbitrators, one each to be nominated by the Seller and the Purchaser and the third arbitrator shall be nominated by the two arbitrators nominated by the Purchaser and the Seller. The venue of Arbitration shall be decided mutually between the parties.”

In pursuance of the said Arbitration Clause, the applicant has already issued notice dated 22-01-2014. But the said assertion is not disputed by filing counter affidavit. In view of existence of arbitration clause and issuance of notice by invoking the same, this application needs to be allowed.

In view of the same, this Arbitration Application is allowed appointing Sri A.Nava Mohan Rao, and Sri V.V.Raghavan, Retired District Judges, as Arbitrators for resolution of dispute(s) between the applicant and respondent, arising out of Fuel Supply Agreement, dated 01-04-2010 in accordance with the provisions and mandate of the Act of 1996. The learned Arbitrators 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

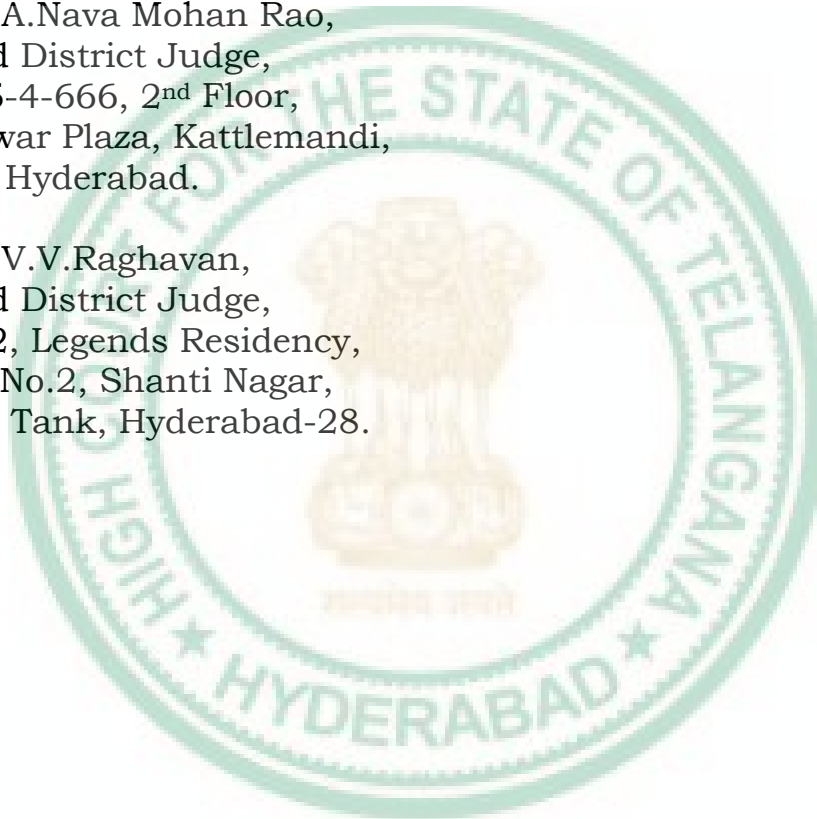
07-01-2020

Note:

Office to mark a copy to:

1) Sri A.Nava Mohan Rao,
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2) Sri V.V.Raghavan,
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B/o.
Nvl



HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION No.84 of 2019



02-01-2020
Nvl