

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Arbitration Application No.116 of 2013

O R D E R

This application is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an arbitrator to adjudicate the claims and disputes between the parties relating to the development agreement, and to pass award in accordance with law.

The case of the applicant is that he entered into Development Agreement – cum – General Power of Attorney with the respondent in the month of April/May, 2009 for developing the subject land into plots, and as disputes arose between the parties, he got issued legal notice dated 17.09.2012, to which respondent replied vide notice dated 4.10.2012. As the dispute remained unresolved, applicant got issued notice dated 05.06.2013, invoking the arbitration clause. As there was no response from the respondent, filed the present application, seeking to appoint an arbitrator.

Counter affidavit is filed by the respondent stating that the alleged agreement relied on by the applicant is neither dated, nor stamped, and even otherwise, as per the clauses in the said agreement, the applicant has not fulfilled his part of the contract, and as such, question of referring the matter to arbitrator, at his instance, does not arise. With these averments, *inter alia*, the application was sought to be dismissed.

Heard the counsel for the applicant and the respondent.

The execution of the development agreement is not seriously disputed by the respondent. Clause 19 of the said agreement reads as follows:

“In case of any disputes arises between the parties hereto touching these presents the matter shall be referred to the arbitrator one chosen by each party and in case of any difference of opinion between such arbitrators, they shall nominate a

common umpire and their award shall be final and binding on both the parties and relevant provision of the arbitration act shall apply.”

As per the above clause in the development agreement, the parties have agreed to refer the disputes between them under the agreement, to an arbitrator. The case of the applicant is that, as disputes arose out of the agreement, he issued notice dated 05.06.2013 invoking the arbitration clause under the said agreement, for resolving the disputes, and as the respondent failed to respond, filed the present application.

In view of the same, and having regard to the fact and circumstances of the case, the arbitration application is allowed and Sri K. Narasimha Chary, retired Senior Civil Judge, is appointed as arbitrator to resolve the disputes and claims between the parties.

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 shares.

All the issues are left open to be agitated before the above named arbitrator, who shall consider the same, and pass award in accordance with law.

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

A.RAJASHEKER REDDY,J

DATE:07—01—2020

Note:

Mark a copy of this order to :

Sri Narasimha Chary,
H.No.2-2-18/18/3/3, Flat No.101,
Raja Gruha Apartments, C-32/8,
Durgabai Deshmukh Colony,
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B/o.
(AVS)