



IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE

ARBITRATION APPLICATION No.12 of 2022

(Through physical mode)

M/s. Alliance One Industries India Private Limited,
Nagendra Nagar, Pottur,
Guntur, Andhra Pradesh

..Applicant

Versus

The Oriental Insurance Company Limited,
Oriental House, A-25/27,
Asaf Ali Road,
New Delhi – 110 002,
Represented by its Chairman and
Managing Director and others.

...Respondents

Counsel for the applicant : Ms. Sridevi Jampani

Counsel for the respondents : Ms. S.A.V. Ratnam

ORAL ORDER

Dt:04.11.2022

This application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') has been preferred for appointment of sole arbitrator to resolve the disputes between the parties arising out of insurance claim emanating from the insurance policies (1) 463300/11/2019/657, (2) 463300/11/2019/759 and (3) Flop Policy No.463300/11/2019/455.



2. During subsistence of the above said insurance policies, the applicant suffered fire accident, in which it sustained loss, which according to the applicant, is to the tune of Rs.15,49,29,486/-. When such claim was raised by the applicant before the respondent – insurance company, an amount of Rs.6,66,23,995/- was settled in favour of the applicant and the remaining amount of Rs.8,83,53,119/- was denied.

3. The applicant served a notice for satisfying the remaining claim, which has been turned down necessitating presentation of the present application in terms of clause 13 of the Standard Fire and Special Perils Policy containing an arbitration clause, which provides thus:

"If any dispute or difference shall arise as to the quantum to be paid under the policy (liability being otherwise admitted) such difference shall independently of all other questions be referred to the decision of a sole arbitrator to be appointed in writing by the parties to the difference or if they cannot agree upon a single arbitrator within 30 days of any party invoking arbitration the same shall be referred to a panel of three arbitrators, comprising of two and the third arbitrator to be appointed by such two arbitrators and arbitration shall be conducted under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996"

4. Learned counsel for the respondents would object to the prayer made in the application on the ground that the applicant having accepted the claim for Rs.6,66,23,995/- towards full and final



settlement of the claim, is not entitled to invoke arbitration clause as there is no subsisting dispute between the parties.

5. The material papers presented before this Court including the counter affidavit would not disclose that the applicant has admitted, in writing, that the amount of Rs.6,66,23,995/- paid by the respondent is towards full and final settlement. Even otherwise, the Hon'ble Supreme Court in "***Duro Felguera, SA Vs. Gangavaram Port Ltd.***," reported in ***(2017) 9 SCC 729***, has observed that the intention of the legislature is crystal clear that the court should and need only look into one aspect, which is the existence of an arbitration agreement. If the agreement contains a clause which provides for arbitration pertaining to the disputes which have arisen between the parties to the agreement, the Court will not look into any other matters including the defence of the other party at the stage of appointment of arbitrator invoking Section 11 (6) of the Act.

6. Following ***Duro Felguera*** (supra), the Hon'ble Supreme Court in "***Mayavati Trading Private Limited Vs. Pradyut Deb Burman*** reported in ***(2019) 8 Supreme Court Cases 714***" observed that the law prior to the 2015 Amendment that has been laid down by the court which would have included going into whether accord and satisfaction has taken place, has now been legislatively overruled. After introduction of



Section 11(6-A), the Court is only confined to the examination of the existence of an agreement and nothing more, nothing less.

7. In view of the settled legal position, since there exists an arbitration clause in the insurance policies obtained by the applicant and there exists a dispute in regard to the claim to which the applicant is entitled for, this Court can exercise power under Section 11 (6) of the Act to appoint an arbitrator.

8. Accordingly, this Court appoints Smt. Justice (Retd.) Kongara Vijaya Lakshmi as sole arbitrator to resolve the dispute between the parties. The parties are at liberty to file their respective pleadings before the arbitrator.

9. The fee of the arbitrator, place of arbitration and the other terms and conditions shall be settled by the arbitrator so appointed in consultation with the parties.

10. Registry will send a copy of this order to the Justice (Retd.) Kongara Vijaya Lakshmi, Plot No.9/B, Road No.7, Filmnagar, Jubilee Hills, Besides Filmnagar, Cultural Center, Hyderabad. Contact Nos.9849807562, 7901097366.

11. The Arbitration Application is disposed of accordingly. No costs. All pending miscellaneous applications shall stand closed.

PRASHANT KUMAR MISHRA, CJ
Ksp