

Karnataka High Court

Smt Uma Prabhakar Kalghatgi vs Aaypee Developers Pvt Ltd on 28 July, 2009

Author: H.N.Nagamohan Das

IN THE Hmn come? 01? KARHATAKQ

cmcurr BENCH AT DHARWMT5' ' Q » A'

DATED "mm THE 28" PAY on u"Ji.;j\$n "

THE :--mN'BLE Mn. JIIS-fl_fICEAVH_.v li. ,

(.'..M.P. 1\$m 292I26a\$'T

BETWEEN:

SMT. UMA PRAf\$;;.Aj1<AR'--KALGHAT<;i;','

AGED A_E3'GU'I'\$f?I YE;.fes,;,"€3c:(::: 'H"e>1.IsEw1FE,
R/Ci 1s.;c: 'scvagmg, AN_f.,3.0L' EXTENSION,
1\q;";<;." RoF;a:;--_, 'I'EL.és--I7_{W_ADI, 3
BgL<3AyM.s9o'_0agi « --.

A « MR. RAJi:\$ia'T'PP\$'B<1~mKAR KALGHATAGI,

'';.a_(.";'1.~'.4v ABOUT 36 YEARS,

000:' f=,I;\$1NE_ss;R/0 15,

C. SCH,_EME,ANC\$0L EXTENSEON,

M.Gq ROAL-1,~T'II.AKWADI,

I€3ELC\$AUM--590 006.

pa

... '».. M\$2\$~1. 'PARVATI SHANKAR K€xLC\$HATAGi,
' .AGE:ABOUT 40 YEARS,

. R";f0 15, C. SCHEME, ANGOL EXTENSION,

MIG. ROAD, TIEAKWADI,

BELGAUM--590 005.

MISS PRAJAKTA SHANKAR KALGHATGI,
A{3E:16 YEARS (MINOR)

MISS REEMA SHANKAR KALGHATGE,
AC}E:13 YEARS (MINOR)

BG'I'H ARE R/0 15, C. SCHEME,
ANGOL EXTENSION,

.r 1
K,
" ,,'I

2

M.G, ROAE}, WLAKWADE,
BELGAUM--590 006,

PETETEONERS No. 4 AND 5 ARE MINQRS . _
REPRESENTED BY NATURAL GUARDEAN . n _._
MOTHER F'E'E'¥Ti0N'f<1R NO. 3 .

(BY SR1 RM. KULKARN1, AwocéfM) A. 3 '
AND: ' ' '

AAYPEE DEVELOPERS PR1vA*"H<;'LIM;TE{3~,... - '
BY ITS MANAGING DI_REC'"I'0\$2_,_
COMPANY LIMITED ;e31<.V_L1AB':VL1'r'I'13:\$~ my
ENCORPORATEE} UNEJEF4 co_MEAN1E--s'AC':i, 1956
HAVING ITS REG1sTERE:>'0;r:.I::::E AT-. ' - _

86, 'DHRUvA*,.MAHAT,MA ::,c;>r::z,E;**,{' ' ; = "
KOHTRUD, PL}N3,\$~41;1 029: * - ~

RESPONDENT

,THfS' :=\$.r:"m'1taN IS FILED UNBER SECFION 13(4) 012'

2'-\..Rbi'\$'t? awn awn CONCILIATION ACT, 1996
. PRA'fI;=\$.{' 'TO Appozm' AN ARBZTRATOR TC} RESOLVE THE}
fj}ISPIJ'i*'vE\$' AS, PROVIDED UNDER CLAUSE NO. 20 OF' THE
. " -J0\$1'é'F'_"_V_Ei'\$"i'URE AGREEMENT {}A'I'EB 8% APRIL 1997 ON
' ...4BEH,A.L_1?a:3F 'rm: PWITIONERS, ETC.

" , 3'I'H\$S PE'I'iTiON COMING ON FOR ADM¥SSiC)N THIS

" r _lfi3AY',' THE Ci{ }()RT MADE THE FOLLOWING:

GREEK

"I'hés petition is filed under Section 11 cf the

Arbiation and Conciliation Act, 1996 (for short thc 'Actj,

/. K.» 'M

" ~ égfiFirgzffiks " "

sefiking appcintxnt of an arbitmtor in rsxspev-3t'*---,jof the
éisputc: between f116 parties in the Joint Ventgiré' éiated

08.04.1997.

2. Clause 20 of the agreement il.i\$1d.cj:r: u

"That in the ;unfQftu\$iaté._eve:\$flt
dispute\$fs, b0€'F1'«.\$he ?<'3_\$'i'Li'€, 'Rv hcéi'iei::1 .4\$1gili_:'\$ndt
approach any VLa.xa.;,"\$.11:it'i:nri1E i;Wefcr the

matter '€iQ."Arbii_'i'ati;:\$:ri',~-will be Agdfiemed by

" Act, 1940' Earty Nos.
appoint Mr. Vinod D. Kulkami
hereby appoint Mr. Girish V.
"\$jV€\$':-3371-\$3-f}.f1C36 as their respective arbitrators and
their decisiem shall be finai and binding on the

V V ffiarties hareto."

A reading of the: above clause in the agmement

AA VTL"bqtaV}'cen the parties specifies that parties have arrived at an

b' égmczmcni for appoinfing the arbitratozs. It is brought to

the nczticse of the Cazyurt. that 0116 of the arbitrators by name

Vinod 33. Kuiiiiami is now dead. Sefere appmaching this

"";?'~'ax»{a2»

k

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Court, petitioners have not issueci any notice proposing the

name of an arbitrator in piace of deceased Only

in the event of parties faiffig to arrive at to

appoint an arbitrator in place of 3mifi*a~\$of;--.._

petitioners are entitled to

11 of the Act. No materialis pia::q{i« on fo Vflzaf
respondent has not propo':\$é;.lV-:of.'::;;etitioners for

appointment of an ii::'13ia\loe«ofdcoE\$:as\$E:d arbitrator.

"" ~ the yetitioncrs to propose
the ;lamt:Vof to '£116 respondent, this petition is
.§¢f\wj'~'ét®'do;. ~ Sdfx.
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