

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Suit No.2643 of 2016

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DATE

ORDER WITH SIGNATURE OF JUDGE

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For hearing of Main Application

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15.11.2017.

Mr. Bilal A. Khawaja, Advocate for Plaintiff.

Mr. Taha Alizai, Advocate for Defendant.

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This is an Application under Section 20 of the Arbitration Act, 1940 for appointment of Arbitrator filed on behalf of the plaintiff for referring the matter to Arbitration as per agreement. Learned Counsel for the plaintiff submits that there is no dispute to the effect that in the Contract Agreement dated 10.8.2012, in clause 50 there exists an Arbitration clause regarding Disputes and Arbitration, whereas, admittedly there is a dispute. He further submits that earlier the defendant had filed a Suit bearing No.1106 of 2014 and through order dated 21.11.2016, the application under Section 34 of the Arbitration Act, 1940, filed on behalf of plaintiff was allowed as prayed and the Suit was stayed till Arbitration is finalized.

Counsel for the Defendant does not dispute such contention of the plaintiff's Counsel but submits that it may be recorded that there are two reports of the Engineers, which may be considered by the learned Arbitrators before passing any Award. He concedes to the grant of this Application and for directions to the parties to nominate their Arbitrators as per Agreement. To this Counsel for the plaintiff does not object.

In view of hereinabove circumstances and for the reason that the agreement in question specifically provides for settlement of dispute(s) through Arbitration, the application under Section 20 of the Act, *ibid*, is hereby allowed by directing the parties to nominate their Arbitrators each as provided in Clause 50.5 of the Agreement in question within 30 days from today. The Arbitrators shall settle their fee on their own with the parties. The Arbitrators shall enter into reference and deliver their award in accordance with the mandate of the Arbitration Act, 1940 and while doing so the above submission of the learned Counsel for defendant shall be kept in consideration.

Suit stands disposed of in the above terms.

J U D G E

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