

**HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

CIVIL REVISION PETITION No.4773 OF 2014

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ORDER: (Per Justice R. Subhash Reddy)

The 1st respondent-company is registered under the Companies Act, 1956. It has filed Arbitration Case No.17 of 2014 before the Arbitral Tribunal, Hyderabad, claiming the following relief:

“The claimant therefore prays that the Hon'ble Arbitrator may be pleased pass an award in favour of the claimant and against the respondents jointly and severally

- (a) Directing the respondents 1 to 3 to pay the claim amount of Rs.11,82,848/- along with future interest @36% p.a. for each defaulted instalment from the date of reference of claim till the date of payment or realization in full;
- (b) To permit the claimant to attach and sell the schedule mentioned property for realization of the award amount along with costs;
- (c) Directing respondents to pay the costs of this Arbitration proceedings and
- (d) To pass such other relief or reliefs as this Hon'ble Arbitrator may deem fit and proper in the circumstances of the case and thus render Justice.”

Relying on the judgment of the Hon'ble Supreme Court in **Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd., and others**^[1], petitioners herein filed I.A.No.1 of 2014 before the Arbitral Tribunal alleging that the Tribunal has no jurisdiction to entertain the claim as prayed for. The said I.A., is dismissed by the impugned docket order dated 02.09.2014. As against the same, this Civil Revision Petition is filed under Article 227 of the Constitution of India.

In the aforesaid judgment, the Hon'ble Supreme Court,

while considering the provisions under Sections 8, 11 and 16 of the Arbitration and Conciliation Act, 1996, held that a suit for sale, foreclosure or redemption of a mortgaged property should only be tried by a civil court and not by the Arbitral Tribunal.

In this case, it is to be noticed that though there is mortgage of the property, claim is also made for realization of a sum of Rs.11,82,848/-. In addition to the same, further relief is sought to permit the claimant to attach and sell the schedule property for realisation of the award. Having regard to the relief sought for, it cannot be said that the Arbitral Tribunal lacks jurisdiction to entertain the claim at all. If at all the Arbitral Tribunal is not entitled to order attachment and sale of the schedule property, having regard to the mortgage of the property in favour of the 1st respondent herein, ultimately, the 1st respondent herein may not be entitled to the relief sought for in clause (b) of the relief sought before the Arbitral Tribunal, but, it cannot be said that the Arbitral Tribunal lacks jurisdiction totally, so as to reject the claim *in limini*.

For the aforesaid reason, while permitting the petitioners to raise objections with regard to grant of relief with regard to clause (b) of the relief sought before the Tribunal by the 1st respondent herein, i.e., attachment of the schedule property, we deem, it is not a fit case to hold that the Arbitral Tribunal lacks total jurisdiction to entertain the claim at all.

Subject to the above, this CRP is dismissed. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the C.R.P., stand closed.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

8th June, 2015
MRR

[\[1\]](#) (2011) 5 SCC 532