HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.4904 OF 2015

ORDER: (Per Hon'ble Sri Justice A. Shankar Narayana)

Assailing the order, dated 19.10.2015, passed by the learned II Additional Chief Judge, City Civil Courts, Hyderabad, in E.P. No.14 of 2014 arising out of the order, dated 27.04.2015, passed by the same Court in O.P. No.1940 of 2013, which arose out of the award, dated 15.06.2013 passed by the arbitrator, the judgment-debtor preferred the instant Civil Revision Petition under Section 115 of the Code of Civil Procedure, 1908.

2 . By the aforesaid order, the executing Court directed the judgment-debtor to pay the difference of interest at 9% per annum on the principal amount of Rs.2,33,59,285/- for the period from 14.09.2014 to 10.07.2015.

3 . The petitioner herein (judgment-debtor) is the respondent in the arbitration award while the respondents (decree-holders) are claimants.

4 . For the sake of convenience, the parties are hereinafter referred to as arrayed in the E.P. before the executing Court.

5. The facts that gave rise to prefer the instant revision, briefly stated, are as under:

(a) The judgment-debtor has taken up construction of a residential apartment called Belmont in Lodha Bellezza Complex and the decree-holders purchased a flat having a carpet area of 3200 square feet along with three car parkings for a total consideration of Rs.2,42,30,799/-. When a dispute arose between them, it was referred to the sole arbitrator. The arbitrator, having followed due procedure, passed the award, dated 15-06-2013, directing the judgment-debtor to refund the entire sale consideration that was paid by the decree-holders with interest at 9% per annum calculated from the date of receipt of the respective amounts in installments within a period of three months from the date of passing of the award.

6. Thus, it is clear that the arbitral Tribunal has not expressed anything as to whether any further interest has to be charged on the amounts due, in case the condition was not complied with.

7. The arbitration award was challenged by the judgment-debtor in the Civil Court under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act'). The learned II Additional Chief Judge, City Civil Court, Hyderabad through the order, dated 27.04.2015, dismissed O.P. No.1940 of 2013 with costs.

8. When the decree-holders sought to enforce the award by filing E.P. No.14 of 2014 on the file of the very same Court, the judgment-debtor resisted the amount claimed in the E.P. instead of satisfying the decree.

9. Having examined the petition, counter and the rejoinder, the executing Court passed the order directing the judgment-debtor to pay the difference of interest at the rate of 9% per annum on the principal amount of Rs.2,33,59,285/- from 14-09-2013 to 10-07-2015 within fifteen (15) days from the date of judgment in view of the provisions of Section 31(7)(b) of the Act.

10. Aggrieved by the aforesaid judgment, the instant revision petition is filed by the judgment-debtor contending that the executing Court did not appreciate the clear position in law that the recourse to the grant of interest at the rate of 18% per annum can only be taken when there is no specific rate of interest indicated in the arbitral award. Thus, it is stated that interest at the rate of 9% per annum prescribed by the arbitral Tribunal has to be applied but cannot be deviated from what was observed by the arbitral Tribunal even for the subsequent period towards post award interest.

11. Heard Sri A. Venkatesh, learned counsel for the judgment-debtor (revision petitioner), and Sri Y. Ratnakar, learned counsel for the respondents, and perused the material on record.

12. Learned counsel for the judgment-debtor would submit that the award passed by the arbitral Tribunal makes it abundantly clear that only 9% per annum interest has to be calculated from the date of receipt of the respective amounts in installments and though period of three (3) months was provided for payment with interest at that rate, in case of failure to comply with the said order, interest chargeable was only 9% per annum for the subsequent period but not at the rate of 18% per annum, and, therefore, the order passed by the executing Court is wrong and is liable to be set aside.

13. Learned counsel for the decree-holders (respondents)

would submit that when the award is silent as to the rate of interest chargeable for the post award period, the mandate of Clause (b) of Sub-Section (7) of Section 31 of the Act entitles for post award interest, and, therefore, the judgment-debtor cannot contend that the decree-holders are entitled to the interest at the rate of 9% per annum only. It is according to him that the mandate of Section 31(7)(b) of the At would govern the field, and, therefore, sought to dismiss the instant revision petition.

14. The short question that arises for consideration in this instant revision is whether the order under challenge directing the decree-holders to pay the sum due with interest at the rate of 18% per annum for the period subsequent to 14-09-2013 to 10-07-2015, on which date, payment was made with interest at 9% per annum is liable to be set aside?

15. The executing Court placing reliance on a decision of the Hon'ble Supreme Court in **Hyder Consulting (UK) Limited v. Governor, State of Orissa** [(2015) 2 SCC 189], granted interest at 18% per annum for the post award period that too from the date of expiry of three (3) months period mentioned in the award, observing that the arbitral Tribunal has not awarded any interest for the post award period and even the civil Court was silent when the orders were passed in the O.P.

16. A reading of Clause (b) of Sub-Section 7 of Section 31 of the Act would make it abundantly clear that in case the award is silent as to prescribing rate of interest to be charged for post award period, the sum directed to be paid shall carry interest at the rate of eighteen (18) per centum per annum. The said clause not only governs interest for the period subsequent to passing of award, but also for the period pendentilite award as it carries expression "…… unless the award otherwise directs……" The arbitral Tribunal fixed the time

frame of three (3) months period for payment of the sum due with interest at the rate of 9% per annum that being from 15.06.2013 to 14.09.2013 in tune with the very object of the Act and the award.

17. The judgment-debtor since disobeyed the order, invariably Clause (b) of Sub-Section (7) of Section 31 of the Act attracts such a situation, and, therefore, the judgment-debtor cannot escape from the liability to pay the sum due with interest at the rate of 18% per annum for the period subsequent to expiry of three months provided for payment by the arbitral Tribunal. Thus, the executing Court has not committed any error in passing the order under challenge nor it is tainted with any illegality. Thus, there is no merit in the revision petition.

18. For the aforesaid reasons, the Civil Revision Petition fails and is dismissed confirming the order under challenge. There shall be no order as to costs.

19. As a sequel thereto, Miscellaneous Applications, if any, pending in the revision stand closed.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

November 26, 2015.

VV/PV