

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.4897 of 2011

ORDER:

This Revision Petition is filed under Article 227 of the Constitution of India challenging the Order dt.06-07-2011 in I.A.No.1241 of 2009 in O.S.No.1359 of 2006 of the V Senior Civil Judge, City Civil Court, Hyderabad.

2. Petitioner herein is the 1st defendant in the above suit which was filed by 1st respondent herein against the petitioner and 2nd respondent to declare sale deed dt.30-06-2006 executed by the petitioner in favour of 2nd respondent as null and void and not binding on 1st respondent.
3. It appears that there was an arbitration initiated by 1st respondent to recover certain amounts at Mumbai and award dt.16-06-2007 was passed in favour of 1st respondent. This award was an event which occurred after the suit was filed in 2006.
4. Thereafter, 1st respondent/plaintiff filed I.A.No.1241 of 2009 to place on record the passing of award and to seek consequential amendments in the body of the plaint as well as prayer part.
5. Although this was contested by the petitioner herein, the same was allowed by Order dt.06-07-2011. The Court below held in the said order that the trial in the suit had not yet commenced; that amendment can be ordered since it is a subsequent event after the suit is filed and there was no stay of

passing award. It further took into account the admission of the petitioner in the counter affidavit filed to the amendment application that if the application is allowed, the Court would lose the jurisdiction. It therefore held that no serious prejudice would be caused to the petitioner.

6. Learned counsel for the petitioner would submit that even though he has no objection for the placing on record of the event of passing of award after filing of the suit, relief which is sought to be introduced by way of amendment cannot be granted since arbitration proceedings can only be questioned by way of petition under Section 34 of the Arbitration and Conciliation Act, 1996 and such a relief cannot be granted by the Court below.
7. It is settled law that at the stage of deciding whether or not to allow the amendment, correctness of the case set up in the amendment i.e. whether the relief sought by way of amendment can be granted or not, cannot be gone into. Admittedly the award was passed pending suit and therefore the Court below was right in allowing the amendments to the plaint in the manner sought by 1st respondent. It is not proper for the Court below or this Court to go into the question whether the relief by way of amendment can be granted by the Civil Court or not, at this stage.
8. Therefore, I do not find any merit in the Civil Revision Petition and the same is accordingly dismissed. No costs.
9. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 02-06-2015

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