

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

-

APPEAL SUIT No.148 of 2006

-

-

JUDGMENT: (per Hon'ble Sri Justice K.C.Bhanu)

This appeal, under Section 96 of the Code of Civil Procedure, 1908 (for short, 'CPC'), is directed against the judgment and decree, dated 25.10.2005, in Original Suit No.1 of 2001 passed by the II Additional District Judge, Ongole.

2. Suit was filed for recovery of an amount of Rs.39,01,966.32 ps as per the Arbitration Award, dated 03.10.1996, i.e., an amount of Rs.25,38,225/- towards arbitration award and Rs.13,63,641.32 ps towards interest at the rate of 18% per annum from 05.08.1997 to 05.08.2000 and for subsequent interest at the rate of 18% per annum and for costs of the suit. The said suit was decreed with costs against the appellant/defendant No.1 for a sum of Rs.25,38,225/- with subsequent interest at the rate of 12% per annum from 05.08.1997 till the date of deposit under three Demand Drafts and subsequent interest at the rate of 12% per annum till the date of decree and thereafter, at the rate of 6% per annum till the date of realization. The suit was dismissed against respondent Nos.2 and 3/defendant Nos.2 and 3.

3. Heard both sides.

4. Suit was filed for recovery of amount awarded in the Arbitration award, dated 03.10.1996. If the award passed by the arbitrator has not been implemented, the remedy of respondent No.1/plaintiff is to file execution petition before the competent Court. In view of the fact that arbitration award was passed under the Arbitration Act,

1940, the party has to approach the competent Court and to make the Award as a Rule of Court and thereafter, the award has to be executed. That has not been done. Hence, the suit is not maintainable and accordingly, impugned judgment and decree are liable to be set aside.

5. Accordingly, the Appeal Suit is allowed with costs setting aside the judgment and decree, dated 25.10.2005, in Original Suit No.1 of 2001 passed by the II Additional District Judge, Ongole. However, liberty is given to respondent No.1 /plaintiff to file appropriate application before the competent Court for recovery of amount awarded in the Arbitration award. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

K.C.BHANU, J

M.SEETHARAMA MURTI, J

MARCH 27, 2015

YVL

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

-

-

-

APPEAL SUIT No.148 of 2006

-

DATE: 27.03.2015

YVL