

HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL REVISION PETITION Nos.1471 and 1717 of 2015

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COMMON ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

Since the issue involved in both these civil revisions petitions is inter-related and the parties are also one and the same, they are heard together and being disposed of by this common order.

2 . These Civil Revision Petitions, under Article 227 of the Constitution of India, are filed by the petitioner aggrieved by the common docket order dated 17.01.2015 in I.A.No.1 of 2014 and I.A.No.2 of 2014 in ARC.No.4 of 2010, respectively, passed by the learned Arbitrator, The Citizen Cooperative Society Limited, HUDA Complex, Saroonagar, dismissing the applications filed by him (i) under Order XVIII Rule 17 of C.P.C., seeking to recall P.W.1 for further cross-examination by setting aside the order of forfeiture dated 29.11.2014, by the counsel for petitioner/respondent, and (ii) under Section 151 of C.P.C., seeking to re-open the evidence of petitioner for further cross-examination of P.W.1 by the counsel for respondent; respectively, in a dispute between the petitioner and respondent No.1.

3. The 1st respondent is a Society, from which the petitioner has borrowed some money. On the ground that the petitioner has defaulted in repayment of loan amount, the 1st respondent-Society has initiated Arbitration proceedings in ARC.No.4 of 2010 before the 2nd respondent-Arbitrator. On 29.11.2014, when the said Arbitration Case was listed for cross-examination of P.W.1, on the ground that

the Advocate for the petitioner was not present, the learned Arbitrator has passed order dated 29.11.2014, closing the evidence of P.W.1 and posted the matter for the evidence of the petitioner herein. As such, the petitioner has filed two applications viz., (i) under Order XVIII Rule 17 of C.P.C., seeking to recall P.W.1 for further cross-examination by setting aside the order of forfeiture dated 29.11.2014, by the counsel for petitioner/respondent, and (ii) under Section 151 of C.P.C., seeking to re-open the evidence of petitioner for further cross-examination of P.W.1 by the counsel for respondent; respectively. After considering the material on record, the learned Arbitrator has dismissed both the applications vide common docket order dated 17.1.2015. Aggrieved by the same, the petitioner herein has filed the present civil revision petitions.

4. It is contended by the learned counsel for petitioner that on 29.11.2014, when the matter was listed before the learned Arbitrator for cross-examination of P.W.1, counsel for the petitioner herein was held up before the Joint Collector, Ranga Reddy District, and reached the Arbitration premises late by 15 minutes and on enquiry, he was informed by the clerk concerned that P.W.1's evidence was closed and the Arbitrator has already left the premises of Arbitration proceedings. The learned counsel would further contend that though the petitioner herein was ready to cross-examine P.W.1, he was denied such opportunity.

5. On the other hand, learned counsel for the 1st respondent-Society has contended that though the Arbitration proceedings were initiated in the year 2010, the same are being dragged on at the instance of the petitioner, on one ground or the other. The learned counsel would further submit that the Arbitration case is posted to 13.6.2015 to lead the evidence of the petitioner herein.

6 . Having heard learned counsel for the petitioner and the learned counsel for the 1st respondent-Society, we have perused the impugned common order and the affidavits filed in support of the aforesaid I.As., and also the counter affidavits filed by the 1st

respondent-Society.

7. In the affidavits filed in support of the aforesaid I.As., it is specifically pleaded by the petitioner that on 29.11.2014, his counsel was held up before the Joint Collector, Ranga Reddy District, as such, he could not reach in time and by the time he reached the Arbitration premises, he was informed by the clerk concerned that P.W.1's evidence was closed and the Arbitrator has already left the premises of Arbitration proceedings. The same is not disputed by the 1st respondent-Society in the counter affidavit.

8. In view of the above, as it is averred that when the matter was listed for cross-examination of P.W.1, counsel for the petitioner was held up before the Joint Collector, Ranga Reddy, and by the time he reached the Arbitration premises, the learned Arbitrator has closed the evidence of P.W.1 and left the premises, we are of the view that it is a fit case to provide one more opportunity to the petitioner for cross-examination of P.W.1, subject to certain conditions.

9. Accordingly, both the Civil Revision Petitions are allowed, setting aside the common docket order dated 17.01.2015 in I.A.No.1 of 2014 and I.A.No.2 of 2014 in ARC.No.4 of 2010, and the I.As., stand allowed, subject to the following conditions:

- i. As it is stated that the Arbitration Case is posted to 13.6.2015, the petitioner shall cross-examine P.W.1 and complete the same on the same day or any other date, which the learned Arbitrator fixes for hearing.
- ii. The petitioner shall also complete the evidence of his side within a period of four weeks from today.
- iii. Thereafter, it is left open to the learned Arbitrator to proceed with the hearing of the Arbitration Case.

10. As a sequel, miscellaneous petitions pending, if any, in these civil revision petitions shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A. SHANKAR NARAYANA

10.06.2015.

NOTE: Issue C.C. in two days.

(B/O)

Msr

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