

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.934 OF 2015

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

The proceedings under challenge in this Civil Revision Petition is the certificate of transfer of the award, in E.A.No.1 of 2014 dated 12.03.2015, issued by the Deputy Registrar of Chits/Arbitrator, Vijayawada forwarding the petitioner's application (for transfer of the award to the Civil Court by execution of the award) to the District Judge, Srikakulam for execution.

The award, in the present case, was passed by the Deputy Registrar of Chits/Arbitrator at Vijayawada in A.C.P.No.35 of 2013 dated 01.03.2014. The contention, urged before us by Sri Sai Gangadhar Chamarthy, learned counsel for the petitioner, is that an application under Section 39 of the Code of Civil Procedure (CPC) is required to be filed before the jurisdictional Court at Vijayawada; it is for the said Court to transfer the decree for execution to the competent Court where the properties of the judgment-debtor are situated; and it is not permissible for the Registrar to directly request the District Judge, Srikakulam, under whose territorial limites the properties of the petitioner are situated, to execute the award.

Sri P.Durga Prasad, learned counsel for the respondent, would however rely on Rule 55(2) of the Andhra Pradesh Chit Funds Rules, 1971 ("the Rules" for brevity) to contend that it is open to the Registrar to permit the decree holder to approach the competent Court, where the properties of the judgment-debtor are located, for execution of the award.

Section 71 of the Andhra Pradesh Chit Funds Act, 1971 ("the Act" for brevity) provides for the manner in which money is to be recovered. Section 71(a) mandates that every order passed by the Registrar or his nominee under Section 68 or Section 69, and every order passed by the State Government in appeal under Section 70 for payment of any money, shall, if not carried out on a certificate issued by the Registrar, be deemed to be a decree of a Civil Court, and shall be executed in the

same manner as a decree of such Court. The words “***shall be executed in the same manner as a decree of such Court***” would only mean execution in accordance with the provisions of the CPC. Section 39 CPC requires the decree holder to approach the competent Court, where the decree is passed, for execution of the decree. It is for that Court thereafter, if need be, to transfer the proceedings to the Court within whose territorial jurisdiction the properties of the judgment-debtor are located.

In the present case, as the award was passed in Vijayawada, the jurisdiction of the Competent Court in Vijayawada could alone have been invoked under Section 39 CPC. Rule 55(2) of the Rules merely requires an application to be made to the Registrar, along with the information required by the Registrar, for issuance of a certificate under Section 71 of the Act. The applicant is required to state whether he desires to get the award executed through a Civil Court or through the revenue authorities as provided under clauses (a) and (b) of Section 71 of the Act. As noted hereinabove, Section 71(a) provides for execution of the award, on a certificate issued by the Registrar, by the competent Civil Court in the same manner as a decree of such Court. Rule 55(2) of the Rules does not enable either the Registrar or the respondent-decree holder to approach any Court, other than the Competent Court at Vijayawada, for execution of the award.

The submission of Sri Sai Gangadhar Chamarthy, learned counsel for the petitioner, that the Deputy Registrar of Chits/Arbitrator at Vijayawada could not have forwarded the application, made under Section 71 of the Act, to the District Judge, Srikakulam has considerable force. As the said proceedings are without jurisdiction they are, accordingly, set aside. It is made clear that this order shall not preclude the respondent-decree holder from approaching the Competent Court and have the award executed in accordance with Section 39 CPC.

The Civil Revision Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

8th April 2015

RRB