

*** HON'BLE SRI JUSTICE R. SUBHASH REDDY**

AND

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

+ CIVIL REVISION PETITION Nos.1340, 1779, 1533,

2140 AND 2841 OF 2015

% Date: 1-10-2015

Potlabathuni Srikanth and others .. Petitioners

v.

\$ Shriram City Union Finance Limited

and others .. Respondents

! Counsel for the petitioners

in C.R.P. Nos.1340 and 1779 of 2015 : Sri K. Rajanna

Counsel for the petitioners

in C.R.P. Nos.1533 and 2140 of 2015 : Sri M. Radhakrishna

Counsel for the petitioners

in C.R.P. No.2841of 2015 : Sri Krishna Devan

^ Counsel for respondent No.1 : Sri Maheswara Rao Kuncham

< GIST:

> HEAD NOTE:

? CASES REFERRED:

1. AIR 1970 SC 1475
2. AIR 2015 SC 260 = 2014 Law Suit (SC) 737
3. 2005 Law Suit (Mad) 1447
4. 2003 Law Suit (AP) 1181 = 2004 (4) ALT 609
5. 2007 Law Suit (Mad) 3680
6. AIR 2005 KERALA 290
7. AIR 2005 ORISSA 30
8. AIR 2001 KARNATAKA 364
9. AIR 2015 PATNA 131
10. 2009(2) Arb. LR 334 (Bombay)
11. 2010(1) ALT 808 (DB) = 2010 (1) ALD 522 (DB)
12. 2014 (6) ALT 69 (DB)
13. 2010 (1) ALD 153 (DB)
14. 2001 (6) ALD 272
15. 1995 (Supp.) 2 SCC 348
16. AIR 2014 SC 1093

17. 2000 (1) KLT 691
18. 2003 (2) ALD 818
19. 2007(2) Arb. LR 362 (Bom.) (FB) = AIR 2007 BOMBAY 149
20. 2004 (2) ALT 174
21. AIR 2008 MP 328
22. 1998 (2) ALT 586
23. 1992 (1) An.WR 220

C/15

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**CIVIL REVISION PETITION Nos.1340, 1779, 1533,
2140 AND 2841 OF 2015**

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Between:

Potlabathuni Srikanth and others .. Petitioners

AND

Shriram City Union Finance Limited

and others .. Respondents

DATE OF ORDER PRONOUNCED: 01-10-2015.

HON'BLE SRI JUSTICE R. SUBHASH REDDY _____

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA _____

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments?

2. Whether the copies of judgment may be
Marked to Law Reporters/Journals.

3. Whether Their ladyship/Lordship wish
to see the fair copy of the Judgment?

HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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CIVIL REVISION PETITION Nos.1340, 1779, 1533,

2140 AND 2841 OF 2015

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

Since point of law is common in all these revisions, they are being
disposed of by this common order.

2. Aggrieved of the orders passed by the learned Senior Civil Judge of Mangalagiri, Peddapuram, Gajuwaka and Chittoor, respectively, these Civil Revision Petitions are filed by the respective judgment-debtor(s) in C.F.R. No.2546 of 2014 in E.P. No.50 of 2014, C.F.R. No.2548 of 2014 in E.P. No.42 of 2014, E.P. No.31 of 2013, E.P. No.115 of 2013 and E.P. No.61 of 2012, under Section 115 of the Code of Civil Procedure, 1908 (for short 'CPC'), mainly, on the ground of lack of inherent jurisdiction in view of definition of 'Court' as envisaged under Section 2(1)(e) of The Arbitration and Conciliation Act, 1996 (for short 'the Act').

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C.R.P. No.1340 of 2015:

3. (a) The revision petitioner herein is petitioner - judgment-debtor No.3 in C.F.R. No.2546 of 2014 in E.P. No.50 of 2014 on the file of Senior Civil Judge, Mangalagiri, and respondent No.3 in A.O.P. No.374 of 2012.

(b) The decree-holder viz., Shriram City Union Finance Limited, Mangalagiri Branch, through its authorized representative, filed A.O.P. No.374 of 2012 invoking the arbitration clause contained in the agreement between the parties.

(c) The arbitrator has passed the award, dated 16-09-2013, for a sum of Rs.3,52,562/- with future interest at 30% per annum for each defaulted installment from the date of reference of the claim till realization in full with costs of Rs.6,132/-.

(d) Enforcing the said award, the decree holder filed E.P. No.50 of 2014 on the file of Senior Civil Judge, Mangalagiri, Guntur District. During pendency of the proceedings, revision petitioner (judgment-

debtor No.3) filed C.F.R. No.2546 of 2014 under Section 47 of CPC, questioning executability of the award. In the said application, the very appointment of arbitrator, who is arrayed as respondent No.2 therein, was questioned on the ground that the arbitrator has not given his consent as required by the provisions of sub-section (2) of Section 28 of the Act. The other ground raised by him was that the arbitrator did not adhere to the procedure maintained by the provisions of Sections 18, 19 and 20 of the Act.

(e) The learned Senior Civil Judge, placing reliance on the decision of the Hon'ble Supreme Court in **Vasudev Dhanjbhai Modi v. Rajabhai Abdul Rehman** held that the objections raised by the revision petitioner are unsustainable and, therefore, rejected the application. Assailing the same, this revision is filed.

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C.R.P. No.1779 of 2015:

4. (a) This revision is filed by the petitioner-judgment debtor No.1 in C.F.R. No.2548 of 2014 in E.P. No.42 of 2014 on the file of Senior Civil Judge, Mangalagiri, and respondent No.1 in A.O.P. No.260 of 2012.

(b) The decree-holder viz., Shriram City Union Finance Limited, Mangalagiri Branch, through its authorized representative, filed A.O.P. No.260 of 2012 invoking the arbitration clause contained in the agreement between the parties.

(c) The arbitrator has passed the award, dated 17-09-2013, for a sum of Rs.3,36,182/- with future interest at 30% per annum for each defaulted installment from the date of reference of the claim till realization in full with costs of Rs.5,968/-.

(d) Enforcing the award, the decree-holder filed E.P. No.42 of 2014 on the file of Senior Civil Judge, Mangalagiri, Guntur District. During pendency of the proceedings, judgment debtor No.1 filed C.F.R. No.2548 of 2014 under Section 47 of CPC, objecting to executability of the award passed by the arbitrator.

(e) The learned Senior Civil Judge, placing reliance on the decision of the Hon'ble Supreme Court in **Vasudev Dhanjbhai Modi's Case** (Supra 1) held that the objections raised by the revision petitioner (judgment debtor No.1) are unsustainable and consequently, rejected the application in *limini*. Assailing the same, this revision is filed.

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C.R.P. No.1533 of 2015:

5. (a) Assailing the order, dated 10-02-2015, in E.P. No.31 of 2013 in A.R.C. No.1045 of 2011, passed by the learned Senior Civil Judge, Peddapuram, East Godavari District, this revision is filed by both the judgment-debtors.

(b) Though the revision petitioner (judgment-debtor No.2) opposed the request of the respondent - decree-holder in execution petition (EP) on the ground that the decree-holder without exhausting the remedy available to him under law, is disentitled to file the EP for sale of the petition schedule property, the executing Court, having found that there was no substance in the resistance offered by the revision petitioner, rejected the objections and made the attachment effected in respect of the petition schedule property by order, dated 04-02-2013, under Rule - 54 of Order - XXI CPC, absolute and directed to issue sale notice.

C.R.P. No.2140 of 2015:

(6) Assailing the docket order, dated 13-04-2015, in E.P. No.115 of 2013 in A.A. No.788 of 2011, passed by the learned Senior Civil Judge, Gajuwaka, Visakhapatnam, this revision is filed by both the judgment-debtors. By the order impugned, the executing Court directed to issue warrant of arrest of the revision petitioners (judgment-debtors) under Rules - 37 and 38 of Order - XXI of CPC, on payment of batta subsistence allowance and transit fare by 22-06-2015.

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CRP No.2841 of 2015:

7. Assailing the order, dated 26-11-2013, in E.P. No.61 of 2012 in A.R.C. No.296 of 2012, passed by the learned Principal Senior Civil Judge, Chittoor, this revision is filed by judgment-debtor No.2. By the order impugned, the executing Court issued warrant of attachment of salary of judgment-debtor No.1 at Rs.5,700/- per month, and against the revision petitioner (judgment-debtor No.2), attachment was ordered subject to Section 60 of CPC on the ground that his salary certificate was not received by it.

8. Thus, the orders under challenge in C.R.P. Nos.1340 and 1779 of 2015 are passed by one and the same Court rejecting the applications filed under Section 47 of CPC and since the grounds agitated in both the revisions are identical, we would like to advert to the grounds in C.R.P. No.1340 of 2015.

9. (a) According to the revision petitioners in C.R.P. Nos.1340 and 1779 of 2015, the decision of the Hon'ble Supreme Court in **Vasudev Dhanjbhai Modi's Case** (Supra 1) relied on by the executing Court is not at all applicable to the facts and circumstances

occurring in each of the cases.

(b) The next ground urged by them is that appointment of respondent No.2 as arbitrator was without notice to them and, therefore, the said appointment is in violation of the Act and the Rules made thereunder and, therefore, the very *ex parte* order passed in the respective petitions are illegal and arbitrary.

(c) The third ground urged by them is that the learned Senior Civil Judge, Mangalagiri, has no jurisdiction to entertain the EPs since he, somehow, did not take note of the definition of Court occurring in Section 2(1)(e) of the Act, which envisages that “Court” means the Principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of a suit, but does not include any civil Court of a grade inferior to such Principal Civil Court, or any Court of Small Causes, and, thus, the learned Senior Civil Judge, Mangalagiri has no jurisdiction to entertain the EPs.

(d) Stating that as per the definition, the Principal District Court at Guntur has jurisdiction to entertain the EPs, but not the learned Senior Civil Judge, Mangalagiri, as such, the execution applications filed by them under Section 47 of CPC are liable to be allowed and, thus, sought to set aside the orders under challenge.

10. In C.R.P. No.1533 of 2015, revision petitioners challenged the order impugned therein, on the ground that the executing Court has no jurisdiction to entertain the EP in view of the definition of “Court” as defined under Section 2(1)(e) of the Act.

11. In C.R.P. No.2140 of 2015, though the revision petitioners have not specifically referred to Section 2(1)(e) of the Act, contended that the executing Court has exercised jurisdiction illegally with material irregularity, and, as such, the order under revision is liable to be set aside. The other grounds agitated by the revision petitioners are unnecessary to advert in adjudicating upon the main controversy in these revisions.

12. In C.R.P. No.2841 of 2015, though the petitioner has not raised the plea that the executing Court lacks jurisdiction to entertain the EP and raised various other pleas. Since the executing Court was the 'Principal Senior Civil Judge, Chittoor' and inferior to the Court to that of a 'District Court', we are of the view to take up this revision along with other revisions as we are invited to examine competency of the Senior Civil Judges' Court to entertain EPs when the awards passed by the arbitrators are sought to be enforced under Section 36 of the Act.

13. Heard Sri K. Rajanna, learned counsel for the petitioners in C.R.P. Nos.1340 and 1779 of 2015, Sri M. Radhakrishna, learned counsel for the petitioners in C.R.P. Nos.1533 and 2140 of 2015, Sri Krishna Devan, learned counsel for the petitioner in C.R.P. No.2841 of 2015; and Sri K. Maheswara Rao Kuncham, learned counsel for respondent No.1 - M/s. Sriram City Union Finance Limited in C.R.Ps. 1340, 1779 and 2841 of 2015 and M/s. Shriram Transport Finance Company Limited in C.R.P. Nos.1533 and 2140 of 2015.

14. The arguments advanced by Sri K. Rajanna, learned counsel for the petitioners in C.R.P. Nos.1340 and 1779 of 2015, are adopted by the learned counsel for the petitioners in other revisions.

15. Learned counsel would submit that as per the definition of “Court” as defined in Section 2(1)(e) of the Act, “Court” means, the Principal Civil Court of Original Jurisdiction in a District and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the question forming the subject matter of arbitration, if the same had been the subject matter of a suit, but does not include any civil Court of a grade inferior to such civil Court or any Court of small causes, and, therefore, the orders under challenge passed by the Senior Civil Judge’s Courts, which are inferior to the Principal Civil Court of original jurisdiction in a District, lack jurisdiction to entertain the execution petitions, and, therefore, sought to set aside the orders.

16. To fortify his submission, learned counsel has placed reliance on a decision of Hon’ble Supreme Court and the decisions rendered by various High Courts; in **State of West Bengal v. Associated Contractors, State of Tamil Nadu, v. R. Sundaram, Sri Prashanth Spinners Limited v. Chunnilal Pranjivandass and Company, P. Kandasamy v. Neyveli Lignite Corporation Limited, Mahesh B. Shah v. C.V. Joseph, M/s. Nila Chakra Construction v. State of Orissa and others, I.C.D.S. Limited v. Mangala Builders Private Limited and others, Radha Devi v. Punay Pratap Mandal and Rajashree Shrinivas Joshi and others v. Omega Information Systems.**

17. On the other hand, learned counsel for respondent No.1 would submit that in view of the provisions of Section 16 of A.P. Civil Courts Act 1972, dealing with the limits of pecuniary jurisdiction of Civil Courts and provisions of Section 37 of CPC dealing with the expression ‘Court’ which passed the decree, arbitral awards can be enforced under Section 36 of the Act by filing EPs before the Court concerned having pecuniary and territorial jurisdiction limits. To substantiate his submission, learned counsel

placed reliance on the decisions of Division Benches of this Court in **Bhoomatha Para Boiled Rice and Oil Mill v. M/s. Maheshwari Trading Company, M. Rama Rao v. Sriram City Union Finance Limited and others, Lakhamraju Sujatha v. Yuvaraj Finance Private Limited, and Kvaerner Cementation India Limited v. Bharat Heavy Plate and Vessels Limited.**

18. It is his submission that Section 36 of the Act provides for enforcement of an award shall be in the same manner as if it were decree of a Court under CPC, and, thus, makes it abundantly clear that for enforcement of award, the same can be filed before the Court having pecuniary and territorial jurisdictions, and, therefore, the “Court” as defined under the provisions of Section 2(1)(e) of the Act would not attract the enforcement of awards by the Principal District Court alone.

19. In all these revision petitions, we are confronted with the question as to which Court will have jurisdiction to entertain and decide an application under Section 36 of the Act.

20. Adverting to the submissions and the decisions relied on by the learned counsel for the revision petitioners, in **Associated Contractor’s Case** (Supra 2), the Hon’ble Supreme Court, on reference, as to which Court will have the jurisdiction to entertain an application under Section 34 of the Act for setting aside the award, had the occasion to deal with the definition of “Court” as defined under Section 2(1)(e) of the Act. While stating that the definition is an exhaustive one as it uses the expression “means and includes” is meant to be exhaustive in nature and placing reliance on its earlier decision in **P. Kasilingam and others v. P.S.G. College of Technology and others** observed that the definition in the Act fixes “Court” to be the Principal Civil Court of original jurisdiction and would not include any civil Court of a grade inferior to such Principal Civil

Court or a Small Causes Court.

21. In the said context, the Hon'ble Supreme Court referred to its earlier decision in **Executive Engineer, Road Development Division No.III and another v. Atlanta Limited**, wherein the Hon'ble Supreme Court has taken a view that Section 2(1)(e) of the Act contains a scheme different from that contained in Section 15 of CPC. The facts in **Atlanta Limited's Case** (Supra 16) would show that the State of Maharashtra had moved an application under Section 34 of the Act before the District Judge, Thane; on the same day, since **Atlanta Limited** had moved an application before the High Court of Bombay for setting aside some of the directions contained in the award, the Hon'ble Supreme Court held that "Court" for the purpose of Section 42 of the Act would be the High Court and not District Court". It would be appropriate to refer to the observations made by the Hon'ble Supreme Court contained in paragraph Nos.25 and 26, thus:

"25. All the same, it is imperative for us to determine, which of the above two courts which have been approached by the rival parties, should be the one, to adjudicate upon the disputes raised. For an answer to the controversy in hand, recourse ought to be made first of all to the provisions of the Arbitration Act. On the failure to reach a positive conclusion, other principles of law, may have to be relied upon. Having given out thoughtful consideration to the issue in hand, we are of the view, that the rightful answer can be determined from Section 2(1)(e) of the Arbitration Act, which defines the term "Court". We shall endeavour to determine this issue, by examining how litigation is divided between a High Court exercising "ordinary original civil jurisdiction", and the "principal civil court of original jurisdiction" in a district. What needs to be kept in mind is, that the High Court of Bombay is vested with "ordinary original civil jurisdiction" over the same area, over which jurisdiction is also exercised by the "principal Civil Court of original jurisdiction" for the District of Greater Mumbai (i.e. the Principal District Judge, Greater Mumbai). Jurisdiction of the above two courts on the "ordinary original civil side" is over the area of Greater Mumbai.

Whilst examining the submissions advanced by the learned counsel for the appellant under Section 15 of the Code of Civil Procedure, we have already concluded, that in the above situation, jurisdiction will vest with the High Court and not with the District Judge. The aforesaid choice of jurisdiction has been expressed in

Section 2(1)(e) of the Arbitration Act, without any fetters whatsoever. It is not the case of the appellants before us, that because of pecuniary dimensions, and/or any other consideration(s), jurisdiction in the two alternatives mentioned above, would lie with the Principal District Judge, Greater Mumbai. Under the scheme of the provisions of the Arbitration Act therefore, if the choice is between the High Court (in exercise of its “ordinary original civil jurisdiction”) on the one hand, and the “principal civil court of original jurisdiction” in the District i.e. the District Judge on the other; Section 2(1)(e) of the Arbitration Act has made the choice in favour of the High Court. This in fact impliedly discloses a legislative intent. To our mind therefore, it makes no difference, if the “principal civil court of original jurisdiction”, is in the same district over which the High Court exercises original jurisdiction, or some other district. In case an option is to be exercised between a High Court (under its “ordinary original civil jurisdiction”) on the one hand, and a District Court (as “principal Civil Court of original jurisdiction”) on the other, the choice under the Arbitration Act has to be exercised in favour of the High Court.

26. In the present controversy also, we must choose the jurisdiction of one of two courts i.e. either the “ordinary original civil jurisdiction” of the High Court of Bombay; or the “principal civil court of original jurisdiction” in District Thane i.e. the District Judge, Thane. In view of the inferences drawn by us, based on the legislative intent emerging out of Section 2(1)(e) of the Arbitration Act, we are of the considered view, that legislative choice is clearly in favour of the High Court. We are, therefore of the view, that the matters in hand would have to be adjudicated upon by the High Court of Bombay alone.”

22. The Hon’ble Supreme Court in **Associated Contractor’s Case** (Supra 2), concurring with the reasoning in the case of **Atlanta Limited** (Supra 16), observed in paragraph No.15, thus:

“15. A recent judgment of this Hon'ble Court reported in Executive Engineer, Road Development Division No. III, Panvel & Anr. v. Atlanta Limited, AIR 2014 SC 1093 has taken the view that Section 2(1)(e) contains a scheme different from that contained in Section 15 of the Code of Civil Procedure. Section 15 requires all suits to be filed in the lowest grade of court. This Hon'ble Court has construed Section 2(1)(e) and said that where a High Court exercises ordinary original civil jurisdiction over a district, the High Court will have preference to the Principal Civil Court of original jurisdiction in that district. In that case, one of the parties moved an application under Section 34 before the District Judge, Thane. On the same day, the opposite party moved an application before the High Court of Bombay for setting aside some of the directions contained in the Award. In the circumstances, it was decided that the "Court" for the purpose of Section 42 would be the High Court and not the District Court. Several reasons were given for this. Firstly, the very inclusion of the High Court in the definition would be rendered nugatory if the above conclusion was not to be accepted, because the Principal Civil Court of original jurisdiction in a district is always a court lower in grade than the High Court, and such District Judge being lower in grade than the High Court would always exclude the High Court from adjudicating upon the matter. Secondly, the provisions of the Arbitration Act leave no room for any doubt that it is the superior most court exercising original jurisdiction which has been chosen to adjudicate disputes arising out of arbitration agreements. We respectfully concur with the reasoning contained in this judgment.”

The conclusions arrived at by the Hon'ble Supreme Court are contained in paragraph No.25, thus:

“25. Our conclusions therefore on Section 2(1)(e) and Section 42 of the Arbitration Act, 1996 are as follows:

(a) Section 2(1)(e) contains an exhaustive definition marking out only the Principal Civil Court of original jurisdiction in a district or a High Court having original civil jurisdiction in the State, and no other court as "court" for

the purpose of Part-I of the Arbitration Act, 1996.

(b) The expression "with respect to an arbitration agreement" makes it clear that Section 42 will apply to all applications made whether before or during arbitral proceedings or after an Award is pronounced under Part-I of the 1996 Act.

(c) However, Section 42 only applies to applications made under Part-I if they are made to a court as defined. Since applications made under Section 8 are made to judicial authorities and since applications under Section 11 are made to the Chief Justice or his designate, the judicial authority and the Chief Justice or his designate not being court as defined, such applications would be outside Section 42.

(d) Section 9 applications being applications made to a court and Section 34 applications to set aside arbitral awards are applications which are within Section 42.

(e) In no circumstances can the Supreme Court be "court" for the purposes of Section 2(1)(e), and whether the Supreme Court does or does not retain seisin after appointing an Arbitrator, applications will follow the first application made before either a High Court having original jurisdiction in the State or a Principal Civil court having original jurisdiction in the district as the case may be.

(f) Section 42 will apply to applications made after the arbitral proceedings have come to an end provided they are made under Part-I.

(g) If a first application is made to a court which is neither a Principal Court of original jurisdiction in a district or a High Court exercising original jurisdiction in a State, such application not being to a court as defined would be outside Section 42. Also, an application made to a court without subject matter jurisdiction would be outside Section 42.

The reference is answered accordingly.”

23. In **Sundaram’s Case** (Supra 3), a Division Bench of Madras High Court, while deciding the question as to whether the Principal Sub Court had competence or inherent jurisdiction to deal with it and also the expression ‘Court’ as contained in Section 36 of the Act, held in paragraph No.13, thus:

“13. By examining the matter from any angle, it is thus apparent that the Court in which application under Section 34 of the Arbitration and Conciliation Act can be filed is the principal Civil Court of original jurisdiction in a district. Moreover, as per the definition clause contained in the Arbitration and Conciliation Act, any Civil Court of a grade inferior to the principal Civil Court is specifically excluded. In view of the specific provision contained in Section 2(e) of the Act read with Section 2(4) of the Code of Civil Procedure, it must be taken that the expression "Court" as contained in Sections 34 and 36 of the Act is the principal Civil Court of original jurisdiction in a district, that is to say, the District Court or the District Judge.”

The High Court of Madras referred to the decision in **Sulekha v. Union of India**, rendered by the High Court of Kerala, wherein the Kerala High Court, has struck down the Rule framed by the High Court specifying the Principal Subordinate Judge as the authority to deal with the matters under Sections 9, 34 and 36 of the Act; extracted the observations of the High Court, thus;

“Therefore, it is clear that the Court is the Principal Civil Court of original jurisdiction in a District. Rule specifically says that it "does not include any Civil Court of a grade inferior to such Principal Civil Court" Principal Civil Court in a district is the District Court. This is clear from the definition given in Section 2(4) of the Code of Civil Procedure. The District Court has got original jurisdiction in certain types of civil matters. There can be no dispute for the proposition that Principal Civil Court of original jurisdiction in a District is the District Court. Therefore, the 'Court' for the purpose of the Act is only the District Court being the Principal Civil Court of the District and not the

Subordinate Court which is inferior in statute to the District Court. Since the Court of inferior character of Principal Civil Court cannot be treated as a 'Court' in view of the specific exclusion under Section 2(e) of the Act, Rule 2(c) of the Rules is inconsistent with the provisions of the Act and invalid. Hence it is declared that Rule 2(c) of the Rules is invalid and in view of Section 2(e) of the Act the District Court - Principal Civil Court in the District - will continue to exercise jurisdiction until rules are amended otherwise on all matters which are to be decided by a 'Court' under the Arbitration and Conciliation Act, 1996 except the appointment of an Arbitrator under Section 11 of the said Act. Therefore, I am of the opinion that fourth respondent District Court has jurisdiction to decide the Arbitration O.P. and the Arbitration O.P. has to be decided according to law by that Court itself without transferring the same to the Sub-Court.”

24. A single Judge of this Court in **Sri Prashanth Spinners Limited's Case** (Supra 4), observing that the Court of Senior Civil Judge, Puttur, is not the Principal Court having original jurisdiction within the meaning of Section 2(1)(e) of the Act, held in paragraph No.6, thus:

“6. Section 2 of the Act deals with Definitions and Section 2(1)(e) defines "Court" as:

"In this part, unless the context otherwise requires, "Court" means the Principal Civil Court of original jurisdiction in a District and includes the High Court in exercise of its ordinary civil jurisdiction, having jurisdiction to decide the questions forming the subject matter of the arbitration if the same had been the subject matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court or any Court of Small Causes".

There cannot be any doubt or controversy that definitely the Senior Civil Judge, Puttur is not the principal Court of original jurisdiction of the District within the meaning of Section 2(1)(e) of the Act. In the decision referred supra, while dealing with a similar question, this Court held at

para 12:

"A plain reading of Section 3, Clause (17) of the General Clauses Act shows that the Principal Civil Court of original jurisdiction means the District Court inasmuch as the district Judge is the Presiding Officer of that Court. Both the provisions (Section 3(17) of General Clauses Act and Section 2(4) of CPC) make it manifest that a District Court in a district is the principal Civil Court of original jurisdiction. When the Court considers the expression "the Principal Civil Court of original jurisdiction in district" appearing in the first part of Clause (e) of Section 2 of the Act the definition of the word "Court" in conjunction with the meaning given in Section 2, Clause (4) of the C.P.C. and Clause (17) of Section 3 of the General Clauses Act, it is obvious that it is the Court of District Judge, that is, the Principal Civil Court of original jurisdiction in a District. Not only that, the definition as given under Section 2(e) expressly excludes any other Civil Court of a grade inferior to such Principal Civil Court or any Court of Small Causes. Therefore, the last limb of Section 2(e) is more emphatic that it shall be only the Principal Civil Court of original jurisdiction in a district and no other Court. This, therefore, leaves no room for any doubt that the expression "Court" as envisaged under Section 2(e) means only the "Principal Civil Court of original jurisdiction" in a district which is obviously the District Court. There is no reason to construe the expression "the Principal Civil Court of original jurisdiction" in a district which is obviously the District Court. There is no reason to construe the expression "the Principal Civil Court of original jurisdiction" as envisaged under Section 2(e) of the Act in a different sense than what has been envisaged by the two provisions under the code of Civil procedure and the General Clauses Act referred to hereinabove."

25. Thus, the learned single Judge placing reliance on decision rendered by a single Judge of this Hon'ble Court in **Ankati Satyamaiah v. Sallangula Lalaiah and another**, concluded that entertainment of E.P. by the Senior Civil Judge at Puttur is without authority and jurisdiction and that the District Court at Chittoor

would be the Principal Court of original jurisdiction of the District.

26. In **P. Kandasamy's Case** (Supra 5), a single Judge of Madras High Court, in a similar situation, held that the Principal District Court, Cuddalore, is competent to deal with an arbitration application, placing reliance on the decision in **Sundaram's Case** (Supra 3) rendered by a Division Bench of Madurai Bench of Madras High Court, wherein it was held that the expression 'Court', as contained in Sections 34 and 36 of the Act, is the Principal Court of original jurisdiction in a District i.e., the District Court or the District Judge.

27. In **Mahesh B. Shah's Case** (Supra 6), a single judge of High Court of Kerala took a similar view holding that the Munsiff's Court, Cherthala, has no jurisdiction to enforce the award passed by an arbitration committee for recovery of money. In **Nila Chakra Constructions' Case** (Supra 7), a single Judge of High Court of Orissa took same view having dealt with the provisions of Section 2(1)(e) of the Act, Section 2(4) of CPC and Section 2(10) of Orissa General Clauses Act, 1937 holding that the District Judge, Phulbani is the Principal Civil Court of original jurisdiction and not the Civil Judge (Senior Division) Phulbani.

28. In **Mangala Builders Private Limited's Case** (Supra 8), a single Judge of Karnataka High Court, has expressed a similar view in the context of enforcement of an award under Section 36 of the Act holding that the II Additional Civil Judge (Senior Division), Mangalore has no jurisdiction to entertain EPs under Section 36 of the Act, and that the Principal District Judge exercising jurisdiction over Mangalore alone would have jurisdiction to entertain the EPs.

29. In **Rajashree Shrinivas Joshi's Case** (Supra 10), a single Judge of Bombay High Court in the context of application filed to enforce an award under Section 36 of the Act, placing reliance on a decision of a Full Bench of the same High Court in **Fountain Head Developers v. Maria Arcangela Sequeira**, held that the District Court is the Court for the purpose of executing the award passed under the Act. The Full Bench of Hon'ble Bombay High Court while answering the question whether it is the Civil Judge (Senior Division) or the District Court, which should be construed as being the Principal Court of original jurisdiction for the purpose of petition under Section 34 of the Act elaborately dealt with the definition and meaning of "Court" and the expression "the Principal Civil Court of original jurisdiction in a District" occurring in Section 2(1)(e) of the Act. The observations contained in paragraph Nos.12, 13, 14 and 17 are relevant for the purpose of present case, we felt it apt to extract them, which are thus:

12. In our opinion, a plain and literal reading of all the aforesaid words/expressions/terms employed in Section 2(e) clearly demonstrate the exact meaning of the term "court". It means the district court is the principal civil court of original jurisdiction in a district and not a civil court of a grade inferior to such principal civil court. The court of Civil Judge, Senior Division may also be a civil court of original jurisdiction, but in any case it could not be termed as the principal civil court of original jurisdiction in a district.

13. The Parliament, in the Act of 1996, has intendedly used the terms "Court" and not the "District Court" as we usually find in various other enactments. From a plain and literal reading of the definition of "Court" it is apparent that the definition

is inclusive. It specifically includes in the High Court in exercise of its ordinary original civil jurisdiction. Under Section 3(17) of the General Clauses Act, 1897 and Section 3(15) of the Bombay General Clauses Act, 1904 the term "District Judge" means the Judge of a principal civil court of original jurisdiction. The High Court in exercise of its ordinary original jurisdiction is not included in these definitions. To get out of these definitions and with

a view to include the High Court, the Parliament in the Act of 1996 has not used the term "District Court" and has used only "Court" to mean and include the High Court in exercise of its ordinary original jurisdiction.

14. Thus, from the language of the definition of "Court" under Section 2(e) of the Act of 1996 the Parliament apparently intended to confer the power on the highest judicial authority in a district. It must certainly be taken to have been conscious of the object to be achieved while framing the definition of the term "Court". Besides, it intended to minimise supervisory role of the courts in arbitral process, it also intended to add the greatest credibility to this process. We find support for the view in the judgments of the Supreme Court. The Supreme Court while dealing with the provisions of Section 11 of the Act of 1996, in *S.B.P. & Company* (AIR 2006 SC 450) (supra) in paragraph 12 of the judgment has observed that "the court is defined in the Act to be the principal Civil Court of original civil jurisdiction of the district and includes the High Court in exercise of its ordinary original civil jurisdiction. The principal Civil Court of original civil jurisdiction is normally the District Court. The High Courts in India exercising ordinary original civil jurisdiction are not too many. So in most of the States the concerned court would be the District Court". Similarly, the Supreme Court in *Garhwal Mandal v. Krishna Travel Agency* in Special Leave Petition (Civil) No. 18344 of 2004 decided on 24.1.2007, while dealing with the question whether it could entertain all objections to the award and holding that even if the appointment of the Arbitrator is made by High Court or the Supreme Court, the principal civil court of original jurisdiction remains the same as contemplated under Section 2(e) of the Act of 1996, has observed that the principal civil court of original jurisdiction remains the "District Court" even if the appointment of the Arbitrator is made by the High Court. It is thus clear that the Legislature clearly circumscribed and specifically narrowed down the definition of "Court" to mean only the Court of principal civil original jurisdiction in a district and it is only the court of "District Judge" in a district which is such a "Court" of principal civil jurisdiction.

17. We would also now like to consider the provisions of Section 37 and more particularly

Sub-section (3) thereof which provides that no second appeal shall lie from the order passed in the appeal under this section, but nothing in this section shall affect or take

away any right to appeal in the Supreme Court. Mr. Deo, learned Counsel submitted that the question of filing second appeal would arise only if a Civil Judge, Senior Division is held to be the principal civil court of original civil jurisdiction in a district and not otherwise. In other words, he submitted that it is only against the order of the Civil Judge, Senior Division, the appeal contemplated under Section 37 would be maintainable before the District Court and against that order the second appeal under Section 100 of the Code of Civil Procedure would lie to the High Court and that is the reason why the Legislature has specifically curtailed the remedy of second appeal. We are unable to agree with this submission made by Mr. Deo for more than one reason. It is true that Sections 37(3) expressly prohibits a "second appeal" from an order passed in appeal under Sections 37(1) and 38(2) except an appeal to the Supreme Court. However, there is clear indication inherent in Sub-section (3) that the expression "second appeal" does not mean an appeal under Section 100 of the Code of Civil Procedure. The Supreme Court had an occasion to deal with Section 39(2) of the Act of 1940 in *Union of India v. Mohinder Supply Company* AIR 1962 Supreme Court 256. The provisions contained in Section 39(2) in the Act of 1940 are pari-materia with Section 37(3) of the Act of 1996. The Supreme Court in this judgment has held that the expressions "second appeal" used in Section 39(2) of the Act of 1940 means a further appeal from an order passed in appeal under Section 39(1) and not an appeal under Section 100 of the Code of Civil Procedure. The Supreme Court has further proceeded to observe that if the expression 'second appeal' includes an appeal under the Letters Patent, it would be impossible to hold that notwithstanding the express prohibition, an appeal under the Letters Patent from an order passed in appeal under sub-section (1), of Section 39 of the Act of 1940, is competent. It is thus clear that no Letters Patent appeal would lie from an order in an appeal filed under Section 37 of the Act of 1996. The second appeal contemplated under sub-section (3) of Section 37 of the Act of 1996 means an appeal under the Letters Patent and since there is expressed prohibition to file such appeal no letters patent would lie. Merely because the expression "second appeal" is used in this section does not mean an appeal under Section 100 of the Code of Civil Procedure. This provision is consistent with the statement of objects and reasons which clearly states that enactment of the Act of 1996 is to minimise supervisory role of the Courts in an arbitral

process. The submissions of Mr. Deo, therefore, must be rejected. His further submissions that the later part of the definition of "Court" under Section 2(e) would be material and controlling factor for the definition, which is to the effect that having jurisdiction to decide the questions forming the subject matter of the arbitration, if the same had been subject matter of a suit also deserves to be rejected in view of the discussion in the foregoing paragraphs of the judgment."

Thus, the Full Bench answered the question that the Principal Civil Court of original jurisdiction in a District for the purpose of a petition under Section 34 of the Act is "District Court" and does not include any other Court inferior to the District Court.

30. Thus, we find from the catena of decisions, on which reliance has been placed by the learned counsel for the revision petitioners, consistently holding that the 'Court' as defined in Section 2(1)(e) of the Act refers to "District Court" being the Principal Civil Court of original jurisdiction for the purpose of enforcing an award under Section 36 of the Act.

31. Turning to the decisions relied on by the learned counsel for respondent No.1, a Division Bench of this Court in **Bhoomatha Para Boiled Rice and Oil Mills' Case** (Supra 11), took a different view holding that every arbitral award be enforced as if it is a decree of Civil Court following relevant provisions in Part - II and Order - XXI of CPC and the EP for enforcement of arbitral award need not always be filed before the District Judge's Court under Section 36 of the Act and it can be filed before the Courts of Junior Civil Judge, Senior Civil Judge and District Judge or Additional District Judge, depending upon the amount awarded in an arbitral award subject to territorial jurisdiction. The learned counsel laid emphasis on paragraph Nos.19 and 22 of the decision, wherein it was held thus:

“19. In our considered opinion for the purpose of enforcement of award as a decree of Court for the purpose of Section 36 of Arbitration Act, the Court means not only the Court as defined under Section 2(1)(e) of Arbitration Act but all the Courts subject to territorial and pecuniary jurisdictional limits, they are entitled to enforce the awards. If Parliament intended to confer the power of enforcement of arbitral award only on the District Court irrespective of pecuniary jurisdiction, the word "the Court" with necessary explanation as in Sections 47 and 56 of Arbitration Act ought to have found place in Section 36 of Arbitration Act. To our mind, Parliament intentionally excluded the use of term "the Court" or "Principal Civil Court" or "District Court" but only indicated that the arbitral award shall be enforced as a decree of the Court. It is rather difficult to visualize the situation that all the awards irrespective of pecuniary considerations should be enforced/ executed only in a District Court. That is not the intention of Section 36 of Arbitration Act because as already pointed out except creating a fiction regarding arbitral award treating it as a decree of Civil Court, there is nothing in Section 36 of Arbitration Act to read Section 2(1)(e) into it (definition of 'Court'). We have considered different situations below to test the validity of this argument in an attempt to show that an arbitral award passed under the provisions of Arbitration Act can be enforced even in a Court of Junior Civil Judge or Senior Civil Judge, as the case may be, depending upon the pecuniary jurisdiction.

22. After CPC (Amendment) Act, 1999, inserting Section 89 in Part V, any Civil Court can refer the suit or proceeding before it to arbitration if there are elements of settlement acceptable to the parties. When the matter is referred to arbitration as per Section 87(2)(a) of CPC, the provisions of Arbitration Act shall apply as if the matter is referred to arbitration under the provisions of Arbitration Act. It is not only the District Court which is empowered under Section 89 of CPC to refer the disputes to arbitration but also all civil Courts in the hierarchy including High Court can refer the disputes to arbitration. In a given case, a Junior Civil Judge may refer the dispute to arbitration and after the award is passed, if the successful party has to enforce the award only before a District Court, it would violate provisions of CPC and Civil Courts Act. As seen from Sections 37 and 38 of CPC, a decree has to be executed by the Court, which passed the decree. Therefore, if an arbitral award is made pursuant to

reference made by a Court within its pecuniary jurisdictional limits, it is only that Court, which can execute/enforce such award and not any other Court.”

In paragraph No.28 of the decision, this Court summed up the principles, thus:

“(i) If an arbitral award is passed, an application for enforcement by way of execution petition need not always be filed under Section 36 of Arbitration Act before District Court;

(ii) Depending on the amount awarded in the arbitral award, subject to territorial jurisdiction, an application for enforcement under Section 36 of Arbitration Act can be filed if the value of the award is less than Rs.1,00,000/- before the Court of Junior Civil Judge; if the value of the award is more than Rs.1,00,000/- but does not exceed Rs.10,00,000/- before the Court of Senior Civil Judge; and if the value of the award is more than Rs.10,00,000/- before the Court of District Judge or Additional District Judge if it is assigned to such Additional District Judge;

iii. Every arbitral award can be enforced “as if it is a decree of Civil Court” following relevant provisions in Part II and Order XXI of CPC; and

iv. An application for enforcement of foreign award either under Section 49 or 58 of Arbitration Act shall have to be made only before the District Court and can also be decided by Additional District Court if the case is assigned to such Court.”

32. Based on pecuniary jurisdiction of the hierarchy of the Courts, the very same Division Bench of this Court in **Lakhamraju Sujatha** (Supra 13), which was decided earlier to **Bhoomatha Para Boiled Rice and Oil Mills' Case** (Supra 11), had occasion to answer the question 'whether the Additional District Judge has jurisdiction to adjudicate the EP filed for enforcing the award passed by the arbitrator under the provisions of the Act'. Referring to the definition of decree occurring in Section 2(2) of CPC, Sections 3 and 10 of A.P. Civil Courts Act, 1972, placing reliance on the decision of a single Judge of this Court in **Globsyn Technologies Limited v. Eskaaycee Infosys** and a Division Bench of Madhya Pradesh High Court in **M.P.S.E. Board v. ANSALDO Energia, S.P.A.**, held that the Additional District Judges exercise jurisdiction over the entire District and Additional District Judge, Rajahmundry exercises jurisdiction over the entire District, and, therefore, even if the property attached is situated in Kakinada, the same is not a bar to exercise the jurisdiction of Additional District Judge, Rajahmundry.

33. In **M. Rama Rao's Case** (Supra 12) another Division Bench of this Court has expressed the same view as in **Bhoomatha Para Boiled Rice and Oil Mill's Case** (Supra 11), holding in paragraph No.9, thus:

"9. Contention of the learned counsel for the petitioner that the Principal Civil Court of original jurisdiction in a District got jurisdiction cannot be accepted, because there is no mention in Section 2(e) of the Act about the jurisdiction of the District Court. Principal Court of original jurisdiction will be having jurisdiction to try the cases, if the value of property or the value of decree is less than Rs.10,00,000/- Senior Civil Judge will be having original jurisdiction to execute a decree. The Senior Civil Judge is also Principal Civil Court of original jurisdiction because in respect of all the suits where the value is more than Rs.1,00,000/- and

less than Rs.10,00,000/-, Senior Civil Judge will be having jurisdiction to try the cases. There is no other reason to deviate from the findings recorded by the Division Bench of this Court in Civil Revision Petition No.2980 of 2009, as the findings are based upon proper appreciation of evidence on record as well as law. Contention of the learned counsel for the petitioner to refer the matter to the Larger Bench does not arise. Therefore, the Civil Revision Petition is devoid of merit and it is liable to be dismissed.”

34. In the case of **Kvaerner Cementation India Limited** (Supra 14), this Court while dealing with the power of the District Court in transferring the application filed under Section 34 of the Act to set aside the award, held that the ‘District Judge’ acts as a ‘Court’ and not as a *persona designata*, and, therefore, entitled to transfer the application to the ‘Additional District Judge.’ While answering the contention that ‘assumption of the learned Judge that he is *persona designata* under the Act and so he cannot make over the proceedings to the Courts of co-ordinate jurisdiction is erroneous’ raised by the learned counsel for the petitioner therein relying on the decision of this Court in **S. Srinivas Rao v. High Court of A.P.** and **New Jaji Labour Society v. Haji Abdul Rahaman Sahab**, the learned single Judge following the decision in **New Jaji Labour Society’s Case** (Supra 23), observed in paragraph No.5, thus:

“5. In New Jaji Labour Society's case (supra), another Division Bench of this Court, was dealing with Section 7 of the A.P. Land Grabbing (Prohibition) Act, 1982 prior to its amendment by Act XVI of 1987, when the 'Special Court; under the said Act was 'District Judge'. After amendment to the said Act by Act XVI of 1987, the District Judges are designated as Special Tribunal under Section 7A of that Act. The question before the Division Bench was whether the District Judge acting as 'Special Court' under the Provisions of the that Act has power to make over the case filed by him under the Act to Additional District Judge, and whether the Additional District Judge has power to deal with the case made over to him. After referring to Srinivas Rao's case (supra) and other cases, a Division bench of

this Court held that the 'District Judge' while discharging the functions of a 'Special Court' (under the Unamended Land Grabbing (Prohibition) Act) does not discharge the duties as persona designata, but acts only as a civil Court of original jurisdiction and, as such, has power to transfer or make over the cases under the said Act to the Additional District Judge. The ratio in those decisions applies on all fours to the facts of this case also, because Section 2 (e) of the Act only contemplates the "Court' in which the proceedings referred to Section 34 of the Act have to be instituted and nothing more. There is no other provision in the Act which lays down that only that Court where the proceedings were instituted should try and dispose the case as PERSONA DESIGNATA and not as a 'Court'. Therefore, the Principal Civil Court of original jurisdiction,, before whom proceedings under the Act are instituted, acts only as 'Civil Court', but not as 'persona designata' and therefore the proceedings instituted under Section 34 of the Act would be governed by the provisions of the Civil Courts Act. Under Section 11 of the Civil Courts Act, District Judge has power to make over or assign the cases instituted before him under the Act to the Additional District Judge. Hence, contention of the learned counsel for the respondent that Additional District Judge has no power to deal with and dispose of the cases under the Act is not sustainable.”

Though, learned counsel for respondent No.1 placed reliance on this decision, it would not render any assistance to substantiate his submission.

35. With respect, we would like to express that, somehow, it appears that the provisions/mandate of Rule 10 of the Andhra Pradesh Arbitration Rules, 2000 (for short 'Rules') framed under the Act, by the High Court, perhaps, was not brought to the notice of the Division Benches of this Court while rendering the judgments in **Bhoomatha Para Boiled Rice and Oil Mill's Case** (Supra 11), **Lakhamraju Sujatha's Case** (Supra 13) and **M. Rama Rao's Case** (Supra 12). It is, therefore, imperative upon us to refer to Rule 10 of the Rules,

which reads thus:

“10. An application under Section 34 and an application under Section 36 shall be filed in the Court as defined in Section 2(e) of the Act, subject to the special provisions contained in Section 42 of the Act.”

It is needless to mention that Rule 10 of the Rules, thus, mandates that an application to enforce an award under Section 36 of the Act can be entertained by the ‘Court’ as defined under Section 2(1)(e) of the Act, of course, subject to the special provisions contained in Section 42 of the Act which deals with ‘jurisdiction.’

36. In the context of explaining the meaning of the word ‘Court’ occurring in Section 42 of the Act, the Hon’ble Supreme Court in **Associated Contractor’s Case** (Supra 2), referred to the significance of two changes made in its predecessor Section in paragraph No.11, thus:

“11. It will be noticed that Section 42 is in almost the same terms as its predecessor Section except that the words "in any reference" are substituted with the wider expression "with respect to an arbitration agreement". It will also be noticed that the expression "has been made in a court competent to entertain it", is no longer there in Section 42. These two changes are of some significance as will be pointed out later. Section 42 starts with a non-obstinate clause which does away with anything which may be inconsistent with the Section either in Part-I of the Arbitration Act, 1996 or in any other law for the time being in force. The expression "with respect to an arbitration agreement" widens the scope of Section 42 to include all matters which directly or indirectly pertain to an arbitration agreement. Applications made to Courts which are before, during or after arbitral proceedings made under Part-I of the Act are all covered by Section 42. But an essential

ingredient of the Section is that an application under Part-I must be made in a court.

Concerning the word 'Court' occurring in Section 42 of the Act, the Hon'ble Supreme Court held in the same decision (Supra 2) **[Associated Contractor's Case]**, that it should be construed in the same manner as defined under the Act, in paragraph No.20, thus:

“.....The context of Section 42 does not in any manner lead to a conclusion that the word "court" in Section 42 should be construed otherwise than as defined. The context of Section 42 is merely to see that one court alone shall have jurisdiction over all applications with respect to arbitration agreements which context does not in any manner enable the Supreme Court to become a "court" within the meaning of Section 42. It has aptly been stated that the rule of forum conveniens is expressly excluded by section 42. See: JSW Steel Ltd. v. Jindal Praxair Oxygen Co. Ltd., (2006) 11 SCC 521 at para 59. Section 42 is also markedly different from Section 31(4) of the 1940 Act in that the expression "has been made in a court competent to entertain it" does not find place in Section 42. This is for the reason that, Under Section 2(1)(e), the competent Court is fixed as the Principal Civil Court exercising original jurisdiction or a High Court exercising original civil jurisdiction, and no other court. For all these reasons, we hold that the decisions under the 1940 Act would not obtain under the 1996 Act, and the Supreme Court cannot be "court" for the purposes of Section 42.”

37. Thus, the Hon'ble Supreme Court held that Section 42 of the Act applies only to the applications made under Part - I, if they are made to a Court as defined under the Act and the applications made under Sections 8 and 11 of the Act would be outside Section 42 of the Act, and, thus, it is clear that reference to the “Court” mentioned in Section 42 of the Act also relates to the “Court” defined under Section 2(1)(e) of the Act.

38. A survey of decisions of the Hon'ble Supreme Court and the Hon'ble High Courts of various States including our High Court, referred to hereinabove, thus, makes it clear that the "Court" referred to in Sections 34 and 36 of the Act is the "Court" as defined under Section 2(1)(e) of the Act and, thus, in unmistakable terms refers to a "District Court", but not the character of a grade inferior to the Principal Civil Court of original jurisdiction; as not only we are fortified in arriving at such a conclusion by the decisions in **Sundaram's Case** (Supra 3), **Sri Prashanth Spinners Limited's Case** (Supra 4), **Ankati Satyamaiah's Case** (Supra 18), **P. Kandasamy's Case** (Supra 5), **Mahesh B. Shah's Case** (Supra 6), **Nila Chakra Constructions' Case** (Supra 7), **Mangala Builders Private Limited's Case** (Supra 8) and **Rajshree Shrinivas Joshi's Case** (Supra 10), in which, provisions of Section 36 of the Act in relation to the applications to enforce the award have been directly dealt with, but also in view of the very mandate of Rule 10 of the Andhra Pradesh Arbitration Rules 2000, framed under the Act by this Court.

39. Though, it is superfluous to mention again, we would like to mention that in the decisions relied on by the learned counsel for respondent No.1, attention of the Courts as to existence of Rule 10 of the Andhra Pradesh Arbitration Rules 2000, was not drawn, which, perhaps, lead to rendering the judgments with the meaning of the word "Court" occurring in Sections 34 and 36 of the Act, something different from the word "Court" as defined under Section 2(1)(e) of the Act by interpreting the pecuniary and territorial jurisdiction of the "Courts" as classified in the Andhra Pradesh Civil Courts Act, 1972.

40. For the aforesaid reasons, it is obvious that the learned Senior Civil Judges Courts of Mangalagiri, Peddapuram, Gajuwaka and Chittoor have no inherent jurisdiction to deal with the applications

filed under Section 36 of the Act and consequently entertaining the EPs by those Courts is without authority and, therefore, the orders impugned are hereby set aside by giving liberty to respondent No.1 to invoke the jurisdiction of the proper Court.

41. With the above direction, these Civil Revision Petitions are allowed. There shall be no order as to costs.

42. As a sequel thereto, Miscellaneous Petitions, if any, pending in these revisions stand disposed of.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

October 1, 2015.

NOTE:

L.R. Copy to be marked. (**BO**)

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