

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No. 543 OF 2010

ORDER: *(per Hon'ble Sri Justice Ramesh Ranganathan)*

This revision is preferred against the order passed by the District Judge, Anantapur, in E.P.No. 24 of 2008 in A.C.No. 16 of 2007 dated 23-10-2009. The petitioner herein is the judgment debtor, and the respondent in the E.P. The 1st respondent herein filed the E.P. to execute the award dated 17-05-2007 passed under the Arbitration and Conciliation Act, 1996 ("the Act of 1996" for short), seeking attachment of the decretal amount, in the hands of National Insurance Company Limited, Chennai, which was holding the money on behalf of the petitioner herein. The attachment order was made absolute on 01-05-2009.

By the order under revision, the Court below noted the contention urged on behalf of the J.Dr. that he had filed an O.P. to set aside the award with a delay of 300 days; and, in view of the pendency of the O.P., the decree could not be executed. The Court below held that, filing of the O.P. with a delay of 300 days, showed lack of *bona fides*; in case the J.Dr. succeeded in getting the award set aside, he could always be restituted, for the amount, by the decree holder; there were no grounds to entertain the objections by the J.Dr. on the execution of the decree; and the decree holder had made out a case by sending for the attachment amount with the National Insurance Company Limited, Chennai, which was attached on 28-10-2008.

The jurisdiction of the District Judge to pass such an order is put in issue in this Writ Petition. It is unnecessary for us to examine the contentions urged by Sri A.V.Sivaiah, learned counsel for the petitioner, on merits as both he and Sri Maheswara Rao Kunchem, learned counsel for the 1st respondent-decree holder, would agree that this civil revision petition could itself be disposed of directing the Principal District Judge, Anantapur, to pass orders in I.A.No. 1152 of 2009 in un-numbered O.P. of 2009 within a specified time frame.

I.A.No. 1152 of 2009 was filed under Section 5 of the Limitation Act, 1963, read with Section 34 (3) of the Act of 1996, to condone the delay of 312 days in

preferring the O.P. The civil revision petition is disposed of requesting the Principal District Judge, Anantapur to pass orders in I.A.No. 1152 of 2009 at the earliest, and in any event on or before 30-06-2015. The *interim* orders passed in the civil revision petition on 08-03-2010 shall continue till orders are passed in I.A.No. 1152 of 2009. It is made clear that this Court has not expressed any opinion on whether or not the application to condone the delay of 312 days is maintainable, and the learned Principal District Judge, Anantapur, shall decide the I.A. in accordance with law uninfluenced by any observations made in this order.

The civil revision petition is disposed of accordingly. Pending miscellaneous petitions, if any, in this revision shall stand closed in consequence. No order as to costs.

RAMESH RANGANATHAN, J.

M.SATYANARAYANA MURTHY, J.

Date: 09th April, 2015.

JSK

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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C.R.P.No. 543 OF 2010

*(Order of the Division Bench delivered by
Hon'ble Sri Justice Ramesh Ranganathan)*

DATE: 09TH APRIL, 2015

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JSK