

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.689 of 2015

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

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Principal District Judge, Warangal in E.P.No.8 of 2015 in Arb.Case No.460 of 2013 dated 06.02.2015. The respondents herein filed Arb.Case No.460 of 2013 against the petitioners herein claiming payment of Rs.4,69,12,337/- with interest thereon, totalling to Rs.5,66,15,615/-. Aggrieved by the award passed by the arbitrator, the petitioners herein filed A.O.P.No.2250 of 2014 before the IX Additional Chief Judge, City Civil Court, Hyderabad, under Section 34 of the Arbitration & Conciliation Act, 1996 (for brevity, 'the Act'), and the said petition is said to be still pending adjudication as on date. Meanwhile, the respondents herein filed E.P.No.8 of 2015 to have the award and decree in the Arb.Case No.460 of 2013 executed, and the learned Principal District Judge, Warangal, by order dated 06.02.2015, restrained the petitioners herein from transferring or charging the property specified in the schedule by way of sale , gift or otherwise.

Section 34 (1) of the Act enables recourse to a Court against an arbitral award, only by way of an application filed for setting aside such award in accordance with sub-section (2) and sub-section (3) of Section 34 of the Act. Section 36 of the Act stipulates that, where the time for making an application to set aside the arbitral award under Section 34 has expired or, such application having been made, it has been refused, the award shall be enforced under the Code of Civil Procedure in the same manner as if it were a decree of the Court.

An arbitral award can be enforced, in terms of Section 36 of the Act, only if the time for making an application, to set aside the arbitral

award, under Section 34 of the Act has expired or such an application, having been made, has been rejected. In the present case, the petitioners herein have filed an application under Section 34 of the Act within time. Neither of the twin contingencies, stipulated in Section 36 of the Act, are attracted. As long as the application, filed by the revision petitioners, under Section 34 of the Act, is not finally decided the award cannot be executed.

Sri K.Maheswara Rao, learned counsel for the respondents, would fairly state that, in view of Section 36 of the Act, the respondents may not be entitled to execute the award. Learned counsel would, however, request that the Court below be directed to dispose of the application, filed under Section 34 of the Act, expeditiously. We have no reason to doubt that the Court below shall decide the application, filed under Section 34 of the Act, with utmost expedition. As the award cannot be executed, during pendency of proceedings under Section 34 of the Act, the order under challenge in this Civil Revision Petition must be, and is accordingly, set aside.

The Civil Revision Petition is allowed. However, in the circumstances, without costs. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

27th February, 2015.

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