

THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

—
CIVIL MISCELLANEOUS APPEAL No.437 OF 2014

—
JUDGMENT: (per Hon'ble Sri Justice K.C.Bhanu)

This Civil Miscellaneous Appeal, under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is directed against the order, dated 34.01.2014, in S.R.No.7283 of 2013 in Arbitration Original Petition No.Nil passed by the Principal District Judge, Warangal.

2. Appellant herein filed the aforesaid petition under Section 34 of the Act read with Section 151 of the Code of Civil Procedure, 1908 to set aside the award, dated 06.10.2012, in Arbitration Case No.74/2012, passed by respondent No.2 herein and direct respondent No.3 herein to pay an amount of Rs.5,66,272/- and costs. The learned District Judge, after considering the material on record, rejected the petition on the ground that it was not filed within the time stipulated as per sub-Section (3) of Section 34 of the Act. Challenging the same, the present appeal is filed.

3. Heard both sides.

4. Sub-Section (3) of Section 34 of the Act provides that an application for setting aside the award may not be made after three (3) months from the date of receipt of a copy of award by the party. Of-course, after giving explanation, within one month thereafter, the petitioner can file an application to condone the delay. The question that has to be decided in an application under Section 34 of the Act is, what is the date of receipt of copy of award by the party because

limitation of three months starts from the date of serving or receipt of copy of award by the party. This aspect of the case has not been considered by the learned District Judge and at the threshold the application was rejected. It is for the arbitrator or respondent Nos.1 and 3 to show that on what date the award copy was served on the party. Therefore, the impugned order is liable to be set aside.

5. Accordingly, the Civil Miscellaneous Appeal is allowed setting aside the order, dated 24.01.2014, in S.R.No.7283 of 2013 in Arbitration Original Petition No.Nil passed by the Principal District Judge, Warangal and the matter is remanded to the Court below for fresh consideration. The learned District Judge, after giving opportunity to the parties, shall decide the question of limitation in the aforesaid petition in terms of sub-Section (3) of Section 34 of the Act. The said exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

K.C.BHANU, J

M.SEETHARAMA MURTI,

J

FEBRUARY 09, 2015

YVL

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

-

-

-

-

-

CIVIL MISCELLANEOUS APPEAL No.437 OF 2014

DATE: 09.02.2015

YVL