

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA  
RAO**

**C.R.P.No.933 of 2016**

**ORDER:**

Heard the learned counsel for the petitioner. None appears for the respondent.

2. This Revision Petition is filed challenging the order dt.03-12-2015 in I.A.No.688 of 2015 in O.S.No.907 of 2014 of the II Additional Senior Civil Judge, Warangal.

3. Petitioner herein is the plaintiff in the suit. He filed the suit against the respondent for perpetual injunction restraining respondent from seizing the vehicle which is in his possession which was purchased by him under an agreement with the respondent.

4. After receiving summons, the respondent filed I.A.No.688 of 2015 invoking Section 8 of the Arbitration and Conciliation Act, 1996 contending that under the agreement between the parties, and also under the Hire Purchase Act, they have a right to seize the vehicle and that if any dispute arose between the parties with regard to the terms of the agreement, the same has to be settled through an Arbitrator. They contended that any dispute with regard to claims under the agreement cannot be decided by the Civil Court, that the suit itself is not maintainable and a direction be given to the petitioner

to approach the arbitrary in view of the bar contained in the Act.

5. Counter affidavit was filed by the petitioner opposing the said application and contending that under Section 8 (2) of the Act, it was necessary for the respondent to file an original agreement between the parties or certified copies thereof and since this was not done, this application cannot be considered. A plea was also raised that the arbitration clause contained in the loan-cum-hypothecation or hire purchase agreement is not binding on the petitioner. However, it was admitted in the counter affidavit at para-5 that there was clause 15 therein mentioning that that all disputes and differences arising out of agreement would be settled by arbitration to be held in Hyderabad in accordance with provisions of Arbitration and Conciliation Act, 1996 through sole Arbitrator to be nominated by the respondent.

6. In view of the said submission, the Court below allowed I.A.No.688 of 2015 holding that the suit is not maintainable in view of the bar created by Section 8 (1) of the Act. It therefore returned the plaint to the petitioner to approach an Arbitrator in terms of the agreement between the parties.

7. Challenging the same, this Revision Petition is filed.

8. Though the learned counsel for the petitioner contended that the order passed by the Court below is erroneous inasmuch as the original arbitration agreement are duly certified copy thereon has not been filed by the respondent, along with the Revision, the petitioner himself has filed copy of loan-cum-hypothecation agreement between the parties dt.28-02-2013 which showed that there is an arbitration clause to settle dispute between the parties arising under the said agreement as per the provisions of the Arbitration and Conciliation Act, 1996 by an Arbitrator to be nominated or appointed by the respondent.

9. In view of the admission by the petitioner about existence of such a clause by filing of a copy of the said agreement along with this revision, it cannot be said that any prejudice is caused to the petitioner on account of non-filing of the original agreement or certified copy of such agreement.

10. Therefore I am of the opinion that the order passed by the Court below does not warrant any interference by this Court in exercising of its power under Article 227 of the Constitution of India.

11. Accordingly, the Civil Revision Petition is dismissed. No costs.

12. As a sequel, the miscellaneous petitions, if

any pending, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 26-02-2016

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