

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

CRP.No.3960 of 2016

Date:18.8.2016

Between:

Tharugopa Mangamma,
W/o Prasad

..... **Petitioner**

And:

Shiram City Union Finance Limited,
reptd by its authorized Divisional
Executive/General Power of Attorney
Holder-V.Praveen Kumar and three others.

....**Respondents**

Counsel for the petitioner: Mrs. V.Padmaja Reddy

Counsel for respondent No.1: Mr. Maheswararao Kunchem

The Court made the following:

ORDER: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Civil Revision Petition arises out of order, dated 30.6.2016, in E.P.No.139 of 2016 in ARC.No.324 of 2013 on the file of the learned Principal District Judge, Eluru.

The petitioner is one of the guarantors for the loan under a chit advanced by respondent No.1 to respondent No.2. As respondent No.2 failed to repay the loan, respondent No.1 got the dispute referred to arbitration. The sole Arbitrator has passed award on 24.10.2014, in ARC.No.324 of 2013. Seeking execution of the said award, respondent No.1 filed EP.No.139 of 2016 in the

Court of the Principal District Judge, Eluru.

By the afore-mentioned order, the lower Court has directed respondent No.4-the employer of the petitioner to withhold 1/3rd of the salary of the petitioner and after deducting from it Rs.1,000/- remit the amount for a period of 24 months or till realisation of the warrant amount whichever is earlier. Feeling aggrieved by this order, the petitioner filed this Civil Revision Petition.

At the hearing, Mrs. V.Padmaja Reddy, learned counsel for the petitioner, submitted that her client has not received any notice during the arbitration proceedings and that, she has suffered an *ex parte* award at the hands of the Arbitrator. She has further submitted that while respondent No.1 is not proceeding against respondent No.2-the principle borrower, the petitioner who is only a guarantor is proceeded against.

Mr. Maheswararao Kunchem, learned counsel for respondent No.2, submitted that as respondent No.2 is not left with any properties, the petitioner, being the guarantor, whose liability is co-extensive with that of the principle borrower, is equally liable to discharge the loan amount.

Whether the award is proper or legal is not an issue which could be decided by this Court in the present case arising out of an order passed in execution proceedings. Similarly, whether respondent No.1 is justified in proceeding only against the petitioner without first proceeding against respondent No.2 also could not be decided in this Civil Revision Petition in view of the fact that the Execution Petition is pending before the lower Court.

As the impugned order is interim in nature, the petitioner has no reason for not approaching the lower

Court seeking vacation of the said order. On this short ground alone, the Civil Revision Petition is dismissed with liberty to the petitioner to approach the lower Court seeking vacation of the impugned order. If such application is filed, the lower Court shall decide the same expeditiously.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.5105 of 2016 filed by the petitioner for interim relief is dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

JUSTICE G.SHYAM PRASAD

*18th August 2016
DR*