

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS

CIVIL REVISION PETITION No.3008 of 2016

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

This civil revision petition under Section 115 C.P.C. is directed against the order dated 11.02.2016 passed by the learned XIII Additional District Judge, Narasaraopet, in E.P.No.13 of 2014 in Arbitration Case No.284 of 2013. By the said order, the Executing Court allowed the application filed by the respondent herein under Order 21 Rule 66 C.P.C. with regard to sale of the E.P. schedule property and adjourned the matter for settlement of terms.

At the time of ordering notice before admission on 29.06.2016, this Court granted interim stay of further proceedings in the execution petition.

Heard Sri G.V. Srirama Murthy, learned counsel representing Sri N.V.R. Amarnath, learned counsel for the petitioners, and Sri Kuncham Maheswara Rao, learned counsel for the respondent.

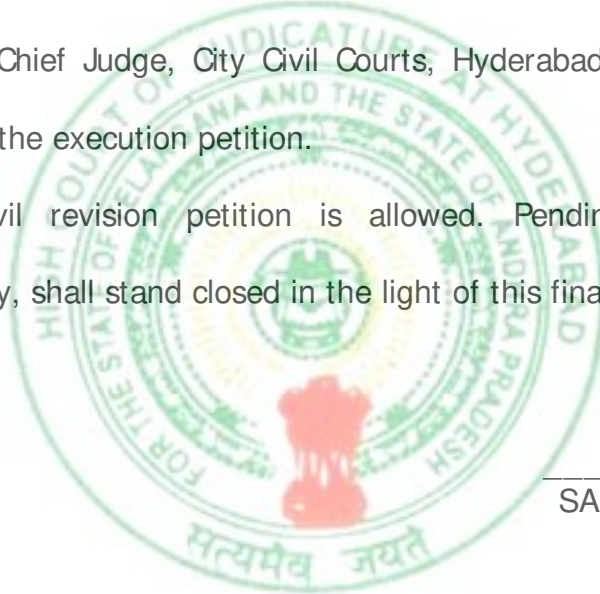
Perusal of the counter filed by the petitioners in the execution proceedings manifests that they specifically referred to the fact that they had filed A.O.P.No.1539 of 2014 before the learned XI Additional Chief Judge, City Civil Courts, Hyderabad, presumably under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act of 1996'), to set aside the Award in Arbitration Case No.284 of 2013.

Relevant to note, the unamended provisions of Section 36 of the Act of 1996 state 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, has been refused, the Award shall be enforced in the

same manner as if it were a decree of the Court. Therefore, once an application under Section 34 of the Act of 1996 is filed and pending consideration before the concerned Court, the Award cannot be enforced till its disposal. Overlooking this crucial aspect, despite being informed of the pendency of A.O.P.No.1539 of 2014 on the file of the learned XI Additional Chief Judge, City Civil Courts, Hyderabad, the Executing Court proceeded in the matter.

The order under revision is therefore set aside on this short ground. The Executing Court shall take note, at least at this stage, of the pendency of A.O.P.No.1539 of 2014 on the file of the learned XI Additional Chief Judge, City Civil Courts, Hyderabad, and take steps accordingly in the execution petition.

The civil revision petition is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR, J

ANI S, J

21st November, 2016
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