

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice G.Shyam Prasad

Civil Revision Petition No.3523 of 2016

Date: 22.07.2016

Between:

Sri Naveen Kumar and another

..Petitioners

and

A.Rajesh

..Respondent

Counsel for the petitioner: Mr.Anand Kumar Kapoor
for M/s.Lawyer & Solicitor

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Civil Revision Petition arises out of Order, dated 12.07.2016, in EP.No.571 of 2016, on the file of the Court of the learned II Additional District Judge, Ranga Reddy District at L.B.Nagar.

The petitioners obtained an arbitral award. Challenging the said award, the respondent has

filed OP.No.1743 of 2016 in the Court of the learned II Additional Chief Judge, City Civil Court, Hyderabad,. By Order, dated 20-04-2016, the said Court dismissed the afore-mentioned OP. While doing so, in Paragraph 17 of the said Order, the Court below made the following observations:

“The petitioner himself is guilty of playing fraud, because he filed the present application in this court and for the same relief filed another application before the District Court, Ranga Reddy District *vide* OP.No.658 of 2015.”

Feeling aggrieved by the order dismissing the OP, the respondent has filed CMA.No.491 of 2016. By Order, dated 27-06-2016, a Division Bench of this Court declined to grant interim order at that stage and adjourned the case to 18-07-2016. The petitioners moved Execution Petition, which was registered as E.P.No.571 of 2016 on the file of the II Additional District Court, Ranga Reddy District. The Executing Court, while issuing notice to the respondent, observed that another OP is pending against the same award in the XIII Additional District Judge's Court, Ranga Reddy District. The grievance of the petitioners in this Civil Revision Petition is that the Executing Court has taken note of pendency of

OP.No.658 of 2015, filing of which was termed as an act of fraud by the Court, which dismissed OP.No.1743 of 2015.

In our opinion, no proper cause arose for the petitioners to approach this Court as the Executing Court has not expressed any final opinion as to whether the arbitral award passed in their favour could be executed or not in view of pendency of OP.No.658 of 2015. Though the Executing Court cannot go behind the award, it has merely placed on record the fact of pendency of OP. This, in our opinion, cannot be construed as the Executing Court expressing the opinion that so long as OP.No.658 of 2015 is pending, the award cannot be executed. The petitioners ought to have waited till an order was passed by the Executing Court after service of notice on the respondent before availing their remedy.

In these facts of the case, we are not inclined to entertain the Civil Revision Petition at this stage. However, the petitioners are left free to file appropriate pleadings regarding OP.No.658 of 2015 before the Executing Court, which thereupon shall consider all those pleadings and dispose of the EP

on its own merits within one month from the date of service of notice on the respondent.

Subject to the above observations and direction, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.4529 of 2016, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 22nd July, 2016
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