

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE DR JUSTICE B. SIVA SANKARA RAO**

**CIVIL REVISION PETITION NOS.567 OF 2016,
5679, 5522 OF 2015, 1144, 1138 OF 2014**

-
COMMON ORDER: *(As per Hon'ble Sri Justice Nooty Ramamohana Rao)*

-

Heard both sides.

But however, during the course of hearing, our attention was drawn to an order passed by a Division Bench of this Court on 13.04.2015, in identical fact situation, the Division Bench of this Court disposed of the said civil revision petition the operative portion of which reads as under:

“This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Deputy Registrar of Chits, Hyderabad in A.B.R./C.F.No.283 of 2013 dated 22.05.2014.

The respondent herein filed an application in A.B.R./C.F.No.283 of 2013 seeking an award to be passed under Section 69 of the Chit Fund Act, 1982 (“the Act” for brevity) for recovery of Rs.2,30,350/- along with interest at 18% per annum on the principal amount from 23.04.2013 till the date of realisation. By the award dated 22.05.2014, the Deputy Registrar directed the petitioners herein, jointly and severally, to pay the said amount. On the ground that they had failed to comply with the award, an order in E.P.No.312 of 2014 in A.B.R./C.F.No.283 of 2013 dated 06.08.2014 was passed directing attachment of the salary of the petitioners herein.

Sri K.Venumadhav, learned counsel for the petitioners, would submit that no notices were served on the petitioners; an ex parte award was passed; it is only on E.P. being filed did they come to know of the award being passed; they had, thereafter, approached the Deputy Registrar; and it is only, thereafter, have they invoked the jurisdiction of this Court. Sri Maheswara Rao Kuncham, learned counsel for the respondents, would submit that, as the petitioners herein were not available at the addresses mentioned, notices could not be served; notice was effected through substitute service by causing publication in the newspapers; and it is only, thereafter, was an award passed.

With a view to give a quietus to this dispute and, as the petitioners are now represented by counsel before this Court, we consider it appropriate

to set aside the ex parte award passed on 22.05.2014 on condition that the petitioners appear either in person or through their counsel before the Deputy Registrar on 23.04.2015. On such appearance, the Deputy Registrar shall hear both sides and pass an award afresh in accordance with law. In case the petitioners do not appear either in person or through counsel before the Deputy Registrar on 23.04.2015, it is open to the Deputy Registrar to pass an award afresh in accordance with law. In any event the award shall be passed afresh within four (4) months from today.

Subject to the above observations, the award of the Deputy Registrar in A.B.R./C.F.No.283 of 2013 dated 22.05.2015 is set aside and the Civil Revision Petition is, accordingly, disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.”

We are now urged to pass the same order by
Sri K. Venumadhav, learned counsel for the
petitioner.

While, we consider that there should be consistency in orders to be passed by this Court in identical fact situation, but however, we find that the petitioner should have been directed to deposit atleast 25% of the award amount with the Deputy Registrar who can permit the same to be withdrawn by the respondent without furnishing any security and which withdrawal will abide by the result in the arbitration proceedings. Therefore, we add the said condition. We grant four weeks time from today for making the deposit of 25% of the awarded amount before the Deputy Registrar. We also direct that the petitioners in this revisions that they shall appear before the Deputy Registrar on 20.04.2016 either in person or through an authorized advocate and it shall be open to the Deputy Registrar to pass the award after hearing both sides on the same day afresh or pass an award on any other subsequent date, however within maximum period of three months from the date reckoned from 20.04.2016.

Civil revision petition is disposed of.

Consequently, miscellaneous petitions pending if any, shall also stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

DR JUSTICE B. SIVA SANKARA RAO

Date:09.03.2016

sp