

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE G.SHYAM PRASAD

C.R.P.No.2833 of 2016

Date:17.9.2016

Between:

Y.Manjula

W/o Y.Sreenivasa Raju

and two others.

..... Petitioners

And:

M/s Margadarsi Chit Fund Pvt Ltd.,

Tirupati, reptd by its Manager/

Foreman-C.Kesavulu Naidu

and three others.

....Respondents

Counsel for the petitioners: Ms. K.Shyamala Reddy

For Mr. M.L.Ali

Counsel for respondent No.1: Mr. P.Durga Prasad

The Court made the following:

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

Feeling aggrieved by order, dated 11.5.2016, in EP.No.84 of 2015 on the file of the learned Principal Sessions Judge, Kadapa, whereby he has overruled the objections raised by the petitioners against the maintainability of the E.P. filed by respondent No.1 seeking execution of the certificate issued by the Registrar for recovery of the amount under an arbitration award, this Civil Revision Petition is filed.

Though several objections were raised by the petitioners before the lower Court which were dealt with by it in the order under revision, Ms. K.Shyamala Reddy, learned counsel representing Mr. M.L.Ali, the learned counsel for the petitioners, has confined her submissions only to the extent of respondent No.1 proceeding against petitioner Nos.2 and 3 alone, who are the guarantors, without proceeding against the principal borrower. She has further submitted that since an appeal is pending before the Government against the award, respondent No.1 is not justified in filing the E.P. even before the disposal of the appeal.

As regards the first submission of the learned counsel for the petitioners, ironically, petitioner No.1 is no other than the principal borrower herself. Therefore, the submission that respondent No.1 should not have proceeded against petitioner Nos.2 and 3 without first proceeding against petitioner No.1 is a self-defeating one. More over, the law is well settled that the

decree- holder has discretion to proceed either against the principal borrower or against the guarantor or against the both as, the obligation of the guarantor is co-extensive with that of the principal borrower.

As regards the second submission of the learned counsel for the petitioners, it is not the pleaded case of the petitioners that any stay was granted by the appellate authority. Mere filing of the appeal does not operate as stay, unless the appellate authority passes such an order staying the award. In the absence of such an order being secured by the petitioners, respondent No.1 is not precluded from proceeding with the execution of the award.

For the afore-mentioned reasons, we do not find any merit in the Civil Revision Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.3589 of 2016 filed by the petitioners for interim relief is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE G.SHYAM PRASAD

17th September 2016

DR