

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

C.R.P.No.4010 of 2016

05.08.2016

Between:

K.Maheswara Reddy

..Petitioner

And

M/s.Shriram City Union Finance Limited,
Nandyal Branch and another

..Respondents

Counsel for the petitioner: Mr.B.S.Reddy

Counsel for the respondents: --

The Court made the following:

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

This civil revision petition is filed by respondent No.2 in Arbitration Case No.384 of 2014 against the order, dated 11.06.2016, of the Arbitral Tribunal in an unnumbered interlocutory application filed in the aforesaid Arbitration Case.

2. The petitioner pleaded that when he sought for permission for cross-examining the witnesses produced by respondent No.1, the Arbitrator refused such permission on the ground that as per Section 19 of the Arbitration and Conciliation Act, 1996 (for short 'the Act'), the Indian Evidence Act, 1872, is inapplicable and that as there is no provision for permitting the parties to cross examine the witnesses of each other under the Act, the petitioner's request was rejected.

3. Under Section 13(4) of the Act, if a challenge under any procedure agreed upon by the parties or under the procedure under Sub-Section (2) of Section 13 is not successful, the Arbitral Tribunal shall continue the arbitral proceedings and make an arbitral award.

Under Sub-Section (5) thereof, the party raising challenge under Sub-Section (4) of Section 13 can make an application for setting aside such an arbitral award after it was made in accordance with Section 34 of the Act. This provision is incorporated with a view to ensure that the arbitral proceedings are held unhindered without the intervention of the Courts at interlocutory stages and if the Arbitrator committed procedural illegalities or irregularities in conducting the arbitration proceedings, the aggrieved party can raise all the legally permissible grounds for setting aside the award on the ground of such procedural errors.

4. Though, *prima facie*, we are of the view that the opinion of the Arbitrator is contrary to the basic jurisprudential principle that the statement of a witness against a party shall not be accepted without

such witness being subjected to cross examination, in view of the statutory scheme underlying the Act, we refrain from expressing our conclusive opinion on the correctness or otherwise of the decision taken by the Arbitrator. We shall only observe that the illegality of the impugned order, if proved, would vitiate the award itself, if the same is challenged under Section 34 of the Act.

5. For the aforementioned reasons, the Civil Revision Petition is dismissed, without adjudicating on the legality or otherwise of the impugned order of the Arbitrator, however, leaving the petitioner free to question its validity in the proceedings under Section 34 of the Act for challenging the arbitral award as and when made.

6. As a sequel to dismissal of the C.R.P., C.R.P.M.P.(SR)No.20422 of 2016 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

05th August, 2016

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