

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND**

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No. 1028 OF 2016

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

Sri Maheswara Rao Kuncham, learned counsel accepts notice on behalf of the 1st respondent. He tries to distinguish the judgment rendered by the Supreme Court in ***National Buildings Construction Corporation Limited V. Lloyd Insulations India Ltd.*** He contends that there need not be an automatic stay in matters of execution of the awards passed by the Arbitrator, but however, it is improper to understand the principle set out by the Supreme Court in ***National Building Construction Corporation Limited V. Lloyd Insulations India Ltd.*** in the manner in which Sri Maheswara Rao tried to do. In paragraph 4 of that judgment, the Supreme Court made it very clear that in view of the mandatory language employed in Section 34 of the Arbitration and Conciliation Act, 1996, an Arbitral Award, when challenged under Section 34 within the time stipulated therein, becomes un-executable. In that view of the matter, we do not agree with the contention canvassed by the learned counsel for the 1st respondent.

Hence, while reiterating the earlier interim order passed by us on 09.03.2016, we set aside the order passed on 28.01.2016 by the IX Additional Chief Judge, City Civil Courts, Hyderabad and hold that the Execution Petition filed for execution of the arbitration award passed in Case No. 44 of 2014 on 27.06.2015 would not lie till such time the Arbitration Appeal filed under Section 34 is not decided by the Court.

At this stage, Sri Maheswara Rao would request the Court to be given necessary direction to decide and deal with the Arbitration O.P.

as early as is possible. We hope and trust that the Arbitration O.P. would be decided at the earliest, at any rate before 31.07.2016.

With this, the Civil Revision Petition stands allowed. No costs.

Consequently, the miscellaneous applications, if any shall stand disposed of.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

21st March 2016

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