

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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CIVIL REVISION PETITION No.4800 of 2014

Between:

IVR Prime Urban Developers Ltd.

....Petitioner

and

S.P.Jain

....Respondent

JUDGMENT PRONOUNCED ON : 11.02.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.4800 of 2014

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ORDER:

This Civil Revision Petition arises out of an order dated 20.10.2014 in I.A.No.703 of 2010 in O.S.No.172 of 2010 on the file of the learned II Additional Senior Civil Judge, Ranga Reddy District, filed by the petitioner herein.

In the above suit filed by the respondent herein arising out of an agreement between the parties, the petitioner herein filed the said application seeking reference to arbitration under Section 8 of the Arbitration and Conciliation Act, 1996.

Learned Counsel for the petitioner relied on Clause 15 of the agreement and submits that, Clause 14 only deals with jurisdiction of the Courts, whereas the reference of the matters to the arbitration is governed by Clause 15. Learned Counsel for the respondent, on the other hand, submits that he has a choice to file either a civil suit or resort to arbitration on a combined reading of Clauses 14 and 15. He relies on **Wellington Associates Limited v. Kirit Mehta**^[1] and **Abdul Gafur v. State of Uttarakhand**^[2], and submits that he also cited these decisions before the lower Court. But, the lower Court summarily dismissed the application of the petitioner herein with the following observations:

“Having regard to the facts and circumstances of this case and upon careful scrutiny of contents of Development Agreement cum General Power of Attorney dated 28-04-2007 which xerox copy is on record, supports the contention of the respondent/plaintiff as Civil Court has jurisdiction and it also confirms the power of Arbitrator with consent of the parties, wherein, in the present case, the plaintiff opted to go to the court without appointment of the Arbitrator and therefore, I am of the view that the petition is devoid of merits since there were two clauses and the petitioner herein failed to file original agreement, upon which he relied.”

In view of the contentions raised by the parties before me, the manner of disposal of the case by the lower Court, as above, is not appreciated.

In the circumstances, the impugned order dated 20.10.2014 is set aside and the learned II Additional Senior Civil Judge, Ranga Reddy District, shall consider the rival contentions in accordance with law and pass a reasoned order, within a period of two months from the date of receipt of a copy of this order.

The Civil Revision Petition is, accordingly, allowed and I.A.No.703 of 2010 is remanded to the learned II Additional Senior Civil Judge, Ranga Reddy District. The miscellaneous petitions pending in this Civil

Revision Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

11.02.2016
vs

[\[1\]](#) (2000) 4 SCC 272
[\[2\]](#) (2008) 10 SCC 97