

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE DR. JUSTICE SIVA SANKARA RAO

C.M.A NO.822 OF 2015 AND C.R.P NO.5439 OF 2015

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

We had an occasion to consider this matter on 24.02.2016 and 01.03.2016. An interim order passed earlier by this Court on 06.11.2015 is continuing by grant of extensions from time to time. At that stage, we have mooted at the Bar about the desirability of keeping this litigation pending in this Court, while two other important proceedings, one before the Arbitral Tribunal and another before the Civil Court in the form of Arbitration O.P.No.2181 of 2015 filed under Section 9 of the Arbitration and Conciliation Act, 1996 are pending. Today, the learned counsel for the respondent has filed a memo authorising this Court to dispose of C.M.A.No.822 of 2015 and C.R.P.No.5439 of 2015 by directing the Civil Court to deal with and decide the Arbitration O.P.No.2181 of 2015 at the earliest, at any rate within a specified time frame limit. We, accept the identically worded memo filed into the Court today in both C.M.A No.822 of 2015 and C.R.P.No.5439 of 2015. Ms. G. Sahithi, learned counsel appearing on behalf of the learned counsel for the appellant would however suggest that since there was an interim order granted by this Court, by virtue of it, the appellant, an electricity manufacturing unit has been importing coal by utilizing the services provided by the respondent-Port and should there be any disruption in rendering services by the respondent-Port, would result in loss of production, if not, total stoppage of production of energy by the appellant/petitioner company. Therefore, she urges that the interim order granted by this Court be sustained till Arbitration O.P.No.2181 of 2015 is disposed of by the XXIV Additional Chief Judge, City Civil Court, Hyderabad.

We, quite see the bonafide attempts made by both sides for a

quick and satisfactory resolution of the *inter se* disputes. In the given circumstances and facts, we consider that, it would only be appropriate that the Arbitration O.P.No.2181 of 2015 be heard and decided, as expeditiously as possible, at any rate before 15.05.2016 by the XXIV Additional Chief Judge, City Civil Court, Hyderabad, on whose file it is pending. As it is, the Arbitration O.P.No.2181 of 2015 is in the nature of an interlocutory relief, as the said O.P. was moved under Section 9 of the Arbitration and Conciliation Act, 1996. The main dispute is receiving attention and consideration before the Arbitral Tribunal for resolution. In these circumstances, without expressing any final opinion about the maintainability of the C.M.A. and/or C.R.P, we dispose of both these matters in the following manner”

“The Court of XXIV Additional Chief Judge, City Civil Court, Hyderabad, is directed to deal with and dispose of Arbitration O.P.No.2181 of 2015 pending on its file as expeditiously as possible, preferably before 15.05.2016, by providing a fair opportunity of hearing to both sides. Further, till the disposal of the said Arbitration O.P.No.2181 of 2015, the interlocutory order passed by this Court, which was enabling the appellant/petitioner herein to continue to utilize the services of the respondent-Port shall hold the field.”

We hope and trust that the Court of XXIV Additional Chief Judge, City Civil Court, Hyderabad, will proceed with the Arbitration O.P.No.2181 of 2015, uninfluenced by any of the observations made by this Court.

Accordingly, both the C.M.A and C.R.P stand disposed of.

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

JUSTICE NOOTY RAMAMOHANA RAO

16.03.2016
sp

DR. JUSTICE SIVA SANKARA RAO