

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

TUESDAY, THE TWELFTH DAY OF JANUARY
TWO THOUSAND AND SIXTEEN

: PRESENT:

THE HON'BLE SRI JUSTICE: A. RAMALINGESWARA RAO

RECEIVE & TRANSMIT PETITION No.6 of 2016

AND

RECEIVE & TRANSMIT CIVIL MISCELLANEOUS PETITION No. 8 OF 2016

Between:

Felguera Gruas India Private Limited, Having its Registered Office at 10-50-24/A, 3rd Floor, Sravya Manor, Visakhapatnam, Andhra Pradesh -530 003,
Represented by Authorized Representative : Mr. Nandan Kumar, Senior Manager, Legal & Company Secretary.

..Petitioner in R&TP No. 5 & R&TPMP No. 8 of 2016)

(Plaintiff in AR.O.P. (SR)

No. 1043 of 2016 sought to be
received in the High Court, sought to
be presented to the Chief Judge,
City Civil Court, Hyderabad)

AND

1.Gangavaram Port Limited, having its Registered Office at :"

Hansa Plaza, Plot No. 798, Road No. 36, Jubilee Hills, Hyderabad -500 033.

..Respondent.

No.1

2. BNP Paribas, Having its branch Office at : Venkat Plaza,

2nd Floor, 6-3-883/5, Punjagutta, Hyderabad -500 082.

.... Respondent No. 2

Respondents in R&TP No. 5 AND

R&TPMP No. 8 of 2016)

(Defendants in do)

R & T P.No. 6 of 2016

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Petition under Section 33 of the A.P. Civil Courts Act 1977, praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to receive the bundle containing the Original Petition under Section 9 of the Arbitration & Conciliation Act, 1996 and pass appropriate interim orders and remit the same to the City Civil Court, at the Courts reopen;

R &TMP. NO. 8 OF 2016

Petition under Order 39 Rule 1 & 2 of C.P.C., praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to pass an ad-interim injunction, preferably, *ex-parte* against the Respondent No.2 from releasing the amounts under the Performance Bank Guarantee numbered 1280021, the BNP Advance Payment Bank Guarantee numbered 1280020

These petitions coming on for orders, upon perusing the petitions and the affidavits filed herein and upon hearing the arguments of Ms. Altaf Fathima, Advocate for the Petitioners in all the petitions and Sri Y.V. Ravi Prasad, Senior Counsel for Sri Y.V. Anil Kumar, Standing Counsel Gangavaram Port for respondent No. 1 in all the petitions;

IT IS ORDERED AS FOLLOWS:

1. That the papers bearing AR.O.P. (Sr) No. 1043 of 2016 sought to be presented to the Court of the Chief Judge, City Civil Court, Hyderabad, be received in the High Court;

2. The Court made the following ORDER:

“This application is filed seeking *ad interim* injunction against the first respondent restraining them from invoking the performance bank guarantee numbered 1280021 and BNP Advance Payment Bank Guarantee numbered 1280020, pending disposal of the original petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 (“the Act” for brevity).

This Court, by order dated 09.01.2016, while issuing urgent notice to the respondents, restrained the second respondent from paying the amount to the first respondent till 14.01.2016, if it was not already paid.

Now, the learned Senior Counsel Sri Y.V.Ravi Prasad appearing for the first respondent submits that they have addressed a letter to the Bank on 07.01.2016 and the Bank issued pay order on 08.01.2016 (5) and 11.01.2016 (1). The pay orders were submitted for encashment to the respective banks in the normal course and they are in the process of credit to their account.

Learned counsel for the petitioner submits that even if the amount is credited to the account of the first respondent, in an application under Section 9 of the Act, they can seek appropriate relief for re-credit of the amount to their account as application under Section 9 of the Act is meant for protecting the interest of the petitioner.

This Court is not clear with the exact situation, as the Bank is not represented by any counsel as on today. In the circumstances, while transmitting the matters to the District Court having jurisdiction in the matter, liberty is given to the petitioner to seek appropriate relief in the present pending applications in the above original petitions and the learned District Judge shall pass appropriate orders after hearing the counsel in accordance with law, uninfluenced by the observations made herein.

Registry is directed to transmit the papers to the Court concerned by 19.01.2016”.

3. That the aforesaid papers bearing AR.O.P. . (Sr) No. 1043 of 2016 sought to be presented to the Court of the Chief Judge, City Civil Court, Hyderabad, be transmitted to the said Court of the Chief Judge, City Civil Court, Hyderabad

SD/-N.PURUSHOTHAM REDDY
ASSISTANT
REGISTRAR

// TRUE COPY //

FOR ASSISTANT
REGISTRAR

To

1. The Chief Judge, City Civil Court, Hyderabad (BY SPECIAL MESSENGER with petitions and all the material papers of AR.O.P.)
2. Gangavaram Port Limited, having its Registered Office at :” Hansa Plaza, Plot No. 798, Road No. 36, Jubilee Hills, Hyderabad -500 033.
3. BNP Paribas, Having its branch Office at : Venkat Plaza, 2nd Floor, 6-3-883/5, Punjagutta, Hyderabad -500 082. (ADDRESSEES 2 & 3 BY RPAD)
4. One CC to Sri Altaf Fathima, Advocate (OPUC)
5. One CC to Sri Y.V. Anil Kumar, Advocate (OPUC)
6. The Section Officer, Judicial Section, High Court of A.P., Hyderabad.
7. One spare copy

Ksv

HIGH COURT

Ksv

Date of drafting: 12-01-2016

ARLRJ

DATE: 12-01-2016

ORDER

**RTP NO. 5 OF 2016
AND
RTPMP NO. 8 OF 2016**

DIRECTION