

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

CIVIL REVISION PETITION No. 3398 of 2016

Date: 22.08.2016

Between:

G. Narayan Reddy,
Medchal, Ranga Reddy District.

.. Petitioner

and

M/s. Shriram City Union Finance Limited,
Rep. by its GPA Holder and Authorised Officer,
Hyderabad, and another

.. Respondents

Counsel for the petitioner: Sri R. Vishnu Vardhan Reddy

Counsel for respondents: Sri Maheswara Rao Kuncham

The Court made the following:



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

Interlocutory order passed pending arbitration case by the sole arbitrator is questioned in this Civil Revision Petition.

In M/ s.S.B.P. & Co., v. M/ s.Patel Engineering Ltd., and another¹, the Supreme Court has held that a revision under Article 227 of the Constitution of India for questioning the interlocutory orders passed by the arbitrator pending arbitration proceedings is not maintainable. The Supreme Court *inter alia* held as under:

“It is seen that some High Courts have proceeded on the basis that any order passed by an arbitral tribunal during arbitration, would be capable of being challenged under Article 226 or 227 of the Constitution of India. We see no warrant for such an approach. Section 37 makes certain orders of the arbitral tribunal appealable. Under Section 34, the aggrieved party has an avenue for ventilating his grievances against the award including any in-between orders that might have been passed by the arbitral tribunal acting under Section 16 of the Act. The party aggrieved by any order of the arbitral tribunal, unless has a right of appeal under Section 37 of the Act, has to wait until the award is passed by the Tribunal. This appears to be the scheme of the Act. The arbitral tribunal is after all, the creature of a contract between the parties, the arbitration agreement, even through if the occasion arises, the Chief Justice may constitute it based on the contract between the parties. But that would not alter the status of the arbitral tribunal. It will still be a forum chosen by the parties by agreement. We, therefore, disapprove of the stand adopted by some of the High Courts that any order passed by the arbitral tribunal is capable of being corrected by the High Court under Article 226 or 227 of the Constitution of India. Such an intervention by the High Courts is not permissible.

The object of minimizing judicial intervention while the matter is in the process of being arbitrated upon, will certainly be defeated if the High Court could be approached under Article 227 of the

¹ AIR 2006 Supreme Court 450

Constitution of India or under Article 226 of the Constitution of India against every order made by the arbitral tribunal. Therefore, it is necessary to indicate that once the arbitration has commenced in the arbitral tribunal, parties have to wait until the award is pronounced unless, of course, a right of appeal is available to them under Section 37 of the Act even at an earlier stage." (emphasis added)

In a recent case, this Court has followed the aforementioned judgment of the Supreme Court and dismissed C.R.P.Nos. 313 & 363 of 2016 by common order dated 18.07.2016.

In the light of the above legal position, the Civil Revision Petition is dismissed with the direction that the observations contained in common order dated 18.07.2016 in C.R.P.Nos. 313 & 363 of 2016 shall form part of this order.

As a sequel, C.R.P.M.P.No.4355 of 2016, filed by the petitioner for interim relief stands disposed of as infructuous.

(C.V.NAGARJUNA REDDY, J)

(G. SHYAM PRASAD, J)

Date: 22.08.2016

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