

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

CIVIL REVISION PETITION NOS.1514, 1518, 1520 AND 1521 OF 2017

DATED:02-06-2017

C.R.P. No.1514 of 2017

Between:

M/s. Sriram Chits Private Limited
Dwarakanagar Branch
Rep. by its General Manager
C. Vegugopal Rao ... Petitioner

And

Smt. Panchadarla Sridevi
and others ... Respondents

COUNSEL FOR THE PETITIONER: Sri Maheswara Rao Kuncham

COUNSEL FOR THE RESPONDENTS: -



THE COURT MADE THE FOLLOWING:

ORDER:

These civil revision petitions arise out of separate but identical orders passed by the I Additional Senior Civil Judge, Visakhapatnam, whereby he has dismissed the execution petitions filed by the petitioner seeking execution of the certificates issued under Section 71 of the Chit Funds Act, 1982 (for short, 'the Act'), purporting to follow the judgment in *Potlabathuni Srikanth v. Shriram City Union Finance Ltd.*¹

Though notices were served, except respondent No.1 in C.R.P. No.1520 of 2017 no one had entered appearance. Mr. B.S. Kartik, learned counsel for respondent No.1, in the said civil revision petition is also not present at the hearing. I have heard the learned counsel for the petitioner.

A perusal of the record shows that the petitioner obtained Awards from the Deputy Registrar of Chits/Arbitrator at Visakhapatnam under Section 69 of the Act and also obtained certificates under Section 71 thereof. Seeking execution of the said certificates, the petitioner has filed separate E.Ps before the Principal Senior Civil Judge, Visakhapatnam. As noted above, the E.Ps were dismissed on the ground that the Senior Civil Judge's Court has no jurisdiction to entertain the E.Ps and it is only the District Court which has such jurisdiction under the Arbitration and Conciliation Act, 1996 (for short, 'the Arbitration Act').

Dealing with an identical case, this Court in *M/s. Shriram Chits Private Limited v. B. Durgaprasad Rao*² held that where an Award was passed under Section 69 of the Act and a Certificate has been issued under Section 71 thereof, such certificate is executable as if it is a decree

¹ 2015 (6) ALT 629 (DB)

² 2017 (1) ALT 8 (DB)

of a Civil Court. This Court has distinguished the judgment in *Potlabathuni Srikanth* (1 supra) with the following reasoning.

“Be that as it may, as rightly argued by Mr. Kuncham Maheswara Rao, learned counsel for the petitioner, the judgment in *Potlabathuni Srikanth* (1 supra) has no bearing on the case on hand. One of us (ASNJ) spoke for the Division Bench in *Potlabathuni Srikanth* (1 supra). That was a case, which arose out of the execution proceedings instituted before the Senior Civil Judge, Mangalagiri, for execution of an award passed under the Arbitration and Conciliation Act, 1996 (for short, ‘the Act’). The judgment debtor-respondent in the E.P. raised objection to the jurisdiction of the Senior Civil Judge, Mangalagiri, based on the definition of ‘Court’ under Section 2(1)(e) of the Act. In that context, the Division Bench held that as per the definition of ‘Court’ under the said provision, the Principal Civil Court of original jurisdiction in a district, i.e., the District Court alone has jurisdiction to entertain the Execution Proceedings and that therefore, the Senior Civil Judge, Mangalagiri, has no jurisdiction to entertain the E.P.”

As the Awards passed by the Deputy Registrar of Chits in these cases cannot be equated with the Award under the provisions of the Arbitration Act, the definition of the Court under Section 2(1)(e) of the said Act is not attracted. The Court below, in my opinion, has committed a serious jurisdictional error in dismissing the E.Ps on the ground of lack of jurisdiction.

For the aforementioned reasons, the orders under revision are set aside. The Court below is directed to dispose of the execution petitions on their own merits after hearing both sides. The civil revision petitions are accordingly allowed.

C.V. NAGARJUNA REDDY, J

02-06-2017

bnr