

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SMT JUSTICE T.RAJANI

CIVIL REVISION PETITION No.6546 of 2016

Date:19.01.2017

Between.

M/s Shriram Chits Private
Limited, MVP Branch, repto., by
its General Manager-C.Venugopal Rao

..... Petitioner

And.

Pakki Bhavani,
W/o P.V.A.S.P.Gandhi and eight others.

.....Respondents

Counsel for the Petitioner: Mr. Kuncham Maheswara Rao

Counsel for Respondent Nos.1 and 6: Mr. Srinivas Emani

Counsel for Respondent Nos.2 to 5: None appeared

The Court made the following:

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

This Civil Revision Petition arises out of docket order, dated 28.12.2015, in E.P.No.35 of 2015 in Dispute No.160 of 2012 on the file of the learned I Additional Senior Civil Judge, Visakhapatnam.

We have heard Mr. Kuncham Maheswara Rao, learned counsel for the petitioner and Mr. Srinivas Emani, learned counsel for respondent Nos.1 and 6. Though notices are served on respondent Nos.2 to 5, who are also the other contesting respondents, no one entered appearance on their behalf.

The petitioner has instituted proceedings against respondent Nos.1 to 6 for recovery of certain amounts due under the chits under the Chit Funds Act, 1982, which was taken on file by the Deputy Registrar of Chits/Arbitrator at Visakhapatnam as Dispute No.160 of 2012. The said authority has passed award on 25.9.2014 in favour of the petitioner and against respondent Nos.1 to 6. Seeking execution of the said award, the petitioner has filed E.P.No.35 of 2015. The said E.P. was dismissed by the lower Court purporting to rely upon the judgment of this Court in *Potlabathuni Srikanth Vs. Shiram City Union Finance Limited and another*¹.

¹ 2016(2) ALD 10 (DB)

Mr. Kuncham Maheswara Rao, the learned counsel for the petitioner, submitted, and in our view rightly, that the judgment in *Potlabathuni Srikanth* (supra) was rendered by a Division Bench of this Court while dealing with an award passed by an Arbitrator under the Arbitration and Conciliation Act, 1996, wherein it was held that the E.P. filed for execution of the arbitral award passed under the said Act lies in the principal Court of civil jurisdiction only, as defined under Section-2(1) (e) of the said Act.

In the instant case, the award has been passed under the Chit Funds Act, 1982 and therefore, the definition of 'Court' under Section-2(1)(e) of the Arbitration and Conciliation Act, 1996 has no application to the Execution Proceedings initiated for recovery of amount under the award passed under Section-69 of the Chit Funds Act, 1982. This legal position was clarified by this Court in *M/s Shriram Chits Private Limited Vs. B.Durgaprasad Rao*, vide order, dated 20.9.2016, in Civil Revision Petition No.4549 of 2016.

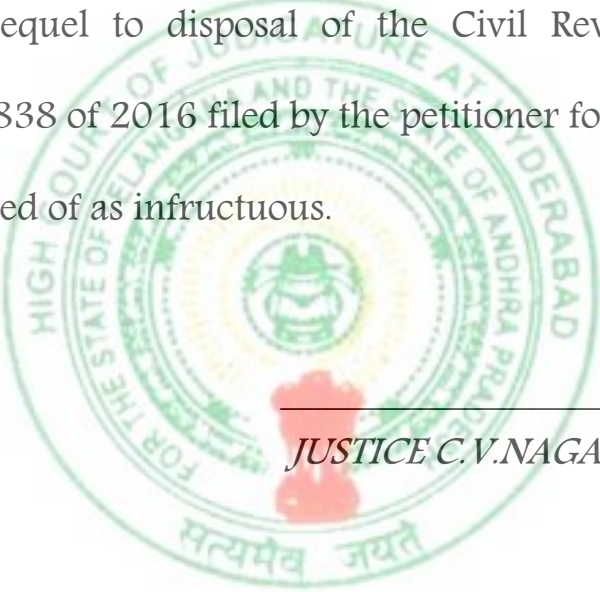
The above position, either on facts or in law, has not been disputed by Mr. Srinivas Emani, learned counsel for respondent Nos.1 and 6.

In the light of the above discussion, we are of the opinion that the lower Court has committed jurisdictional error in

returning the Execution Proceedings filed by the petitioner by misapplication of the ratio laid down in *Potlabathuni Srikanth* (supra).

Accordingly, the order under revision is set aside and the Civil Revision Petition is allowed. E.P.No.35 of 2015 is restored to the file of the I Additional Senior Civil Judge, Visakhapatnam with the direction to it to dispose of the same in accordance with law after hearing both sides.

As a sequel to disposal of the Civil Revision Petition, CRPMP.No.5838 of 2016 filed by the petitioner for interim relief stands disposed of as infructuous.



JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.RAJANI

19th January, 2017

DR