

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

Delivered on :21-06-2017

Coram :

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI

C.R.P.Nos.2280 & 2281 of 2017

C.R.P.No.2280/ 2017

Between:

Chinthakunta Rajesekhar Rao,
Proprieto of Leela Borewells Screens
Manufacturing Industries,
Nimmanapalle Road, Madanapalle

Petitioner
(in both the CRPs)

Vs.

1. Venkata Sai and Co., rep. by its Managing Partner Sri Ganachari Hari Narayana Gupta, Sastry Street, Madanapalle.
2. Smt. G. Dhanalakshmi Gupta, W/o. Hari Narayana Gupta, Sastry Street, Madanapalle (One of the partners of 1st respondent/1st petitioner firm.

Respondents
(in both the CRPs)

Counsel for the petitioner : Mr. A.P. Reddy

Counsel for the respondents : Mr. M.V. Suryanarayana

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COMMON ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

These civil revision petitions arise out of a common order passed by the Principal District Judge, Chittoor in two interlocutory applications, one for reopening of evidence and another for recalling of PW.1 for cross-examination, in an Arbitration O.P.

2. Heard Mr. A.P. Reddy, learned counsel for the petitioner and Mr. V. Suryanarayana, learned counsel appearing for the respondents.

3. This is an unfortunate case where a fundamental aspect has been omitted to be taken note of at all levels. It appears that the respondents herein filed an Original Petition in A.R.O.P.No.113 of 2016 directly on the file of the Principal District Judge, Chittoor, for appointment of Arbitrator to adjudicate a dispute that arose under a MOU dated 11.02.2003. The Original Petition was actually filed in the year 2013 before the II Additional District Court, Madanapalle and later transferred to the Principal District Court, Chittoor and renumbered.

4. Without realizing the fact that the Principal District Judge does not have jurisdiction to appoint Arbitrators under the Arbitration and Conciliation Act, 1996 except in cases where a suit is filed before him and the defendant files an application under Section 8, the District Court proceeded to hear the Arbitration O.P. and examined the witnesses.

5. When the trial was nearing completion, two applications were taken out by the petitioner before the trial Court seeking reopening of evidence and for recalling PW.1 for cross-examination. Both this applications were dismissed by the District Court forcing the petitioner to come up with the above revision petitions.

6. It is needless to point out that the power to appoint an Arbitrator vests under Section 11 (6) of the 1996 Act upon the Chief Justice or his delegate. A

Civil Court will have a limited jurisdiction under Section 8 of the Act, to refer the parties to arbitration, if a suit had been filed overlooking the arbitration clause. The filing of a petition directly before the District Court under Section 8 is not a proper procedure. Therefore, the Original Petition itself is liable to be struck off from the Register. When that is so, the civil revision petitions arising out the interlocutory orders cannot be maintained.

7. Therefore, both these civil revision petitions are allowed and the Arbitration O.P. on the file of the Principal District Judge, Chittoor is struck off. The parties are at liberty to work out their remedies in a manner known to law. As a sequel, miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE N. BALAYOGI

21st June, 2017
Js.



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(Per VRS,J)



21st June, 2017
Js.