

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

[Special Original Jurisdiction]

WEDNESDAY THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE U. DURGA PRASAD RAO

CIVIL MISCELLANEOUS APPEAL No. 458 OF 2016

Between:

M/s. Surani Constructions [SC]
Annapurna Arcade, Opposite Dr.AS Rao Nagar Bus Stop,
Hyderabad
Represented by its Proprietor
Sri S. Ramesh Reddy ... Appellant/Petitioner

V/s.

M/s. NAC Infrastructure Equipments Ltd.
& M/s.Quippo Constructions
Equipment Limited,
Having its registered Office at NAC Campus
Hyderabad,
Represented by its Authorised Signatory... Respondent/Respondent/

Counsel for the appellant: Sri V. Hari Haran

Counsel for the Respondent: Sri V.M.M. Chary

The court made the following: [order follows]

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE U. DURGA PRASAD RAO**

CIVIL MISCELLANEOUS APPEAL No. 458 OF 2016

J U D G M E N T : {Per the Hon'ble Sri Justice Suresh Kumar Kait}

Aggrieved by the judgment and decree dated 28/3/2016 passed in Arbitration OP.No. 572 of 2011 by the Chief Judge, City Civil Court, Hyderabad, dismissing OP.No. 572 of 2011 with costs and confirming the award passed by the Arbitrator, Central Administrator Tribunal, directing the appellant to pay Rs.1,86,202/- as against the claim of Rs.4,30,207/-, with interest @ 10% p.a. from 21/12/2007 till 07/10/2010 under section 31 (7) (a) of Arbitration and Conciliation Act, 1996 and with further interest @ 18% p.a., on the award amount from 07/10/2010 till the date of realization under section 31 (7) (b) of Arbitration and Conciliation Act, 1996, this Civil Miscellaneous Appeal is filed by the appellant/petitioner.

2. Heard Sri V. Hari Haran, learned counsel appearing on behalf of the appellant and Sri V.M.M. Chary, learned counsel representing the respondent.

3. The present Civil Miscellaneous Appeal has been filed on the two grounds; viz., firstly the agreement was between the appellant and respondent for a period of four years commencing from 25/12/2005 to 21/04/2008. Since the Arbitral Tribunal has no jurisdiction to consider the subject matter which had occurred after the said period i.e., 21/04/2008, therefore, the Award passed by the Arbitral Tribunal is illegal and void abinitio. Secondly, the Tribunal has no power under the Act to award interest.

4. The case of Respondent before the Arbitral Tribunal was that the respondent supplied services to the appellant from 13/12/2005 to 31/5/2006, vide Exs.C-6 and C-7 and accordingly claimed from the appellant.

5. This Court put a specific query to learned counsel appearing on behalf of the appellant whether the issue of jurisdiction has been raised before the Arbitral Tribunal ? He stated that jurisdictional issue has been raised before the Arbitral Tribunal in the counter-affidavit stating that the issue raised by the

respondent does not come under the Arbitration and Conciliation Act, 1996.

6. However, the fact remains that the appellant has not raised the issue of jurisdiction before the Arbitral Tribunal. What all stated in the counter-affidavit filed by the appellant before Arbitrator was that the claim statement by the claimant for Rs.,30,207/- is not maintainable according to law, particularly with reference to Arbitration and Conciliation Act, 1996. However, it is not specifically stated that the Arbitrator has no jurisdiction to entertain the claim filed by the appellant.

7. We find jurisdictional issue has been raised by the appellant in the appeal before the Chief Judge, City Civil Court, Hyderabad, which was not raised at the first instance. Thus, the appellant has failed to raise jurisdictional issue before the Arbitral Tribunal.

8. The second issue raised by the appellant is on the quantum of interest. On perusal of the impugned judgment, we find that the

interest has been awarded @ 18% p.a., as per section 31 (7) (b) of Act 26 of 1996.

9. In view of the above discussion, we find no merit in this Civil Miscellaneous Appeal and the same is accordingly dismissed at the admission stage itself. No costs.

10. As a sequel, miscellaneous petitions if any, pending in this Civil Miscellaneous Appeal shall stands disposed of.



JUSTICE SURESH KUMAR KAIT.

JUSTICE V. DURGA PRASAD RAO.

18/01/2017
I s L

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE U. DURGA PRASAD RAO**

CIVIL MISCELLANEOUS APPEAL No. 458 OF 2016
(DISMISSED AT THE ADMISSION STAGE)
{Per the Hon'ble Sri Justice Suresh Kumar Kait}



Date: 18/01/2017
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Court Master : I s L