

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SMT JUSTICE T.RAJANI

CIVIL REVISION PETITION No.6501 of 2016

Date:14.3.2017

**Between:**

V.Venku Reddy (died),

Devireddy Lalitha,

W/o Rami Reddy

..... Petitioners

**And:**

The State of A.P.,

reptd., by Secretary,

Roads and Buildings Department,

Hyderabad and another.

.....Respondents

Counsel for the petitioners: Mr. O.Manohar Reddy

Counsel for the respondents: GP for Arbitration (AP)

The Court made the following:

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

This Civil Revision Petition is filed against order, dated 03.11.2016, in E.P.No.269 of 2015 in Arbitration O.P.No.44 of 1994 on the file of the learned Principal Senior Civil Judge, Nellore.

We have heard Mr. O.Manohar Reddy, learned counsel for the petitioner and the learned Government Pleader for Arbitration (Andhra Pradesh) appearing for the respondents.

The father of the petitioner by name V.Venku Reddy (shown as petitioner No.1 in the Revision Petition) secured an arbitral award on 26.5.1994 against the respondents. Seeking the said arbitral award to be made Rule of the Court, he has filed Arbitration O.P.No.44 of 1994 in the Court of the Principal Senior Civil Judge, Nellore. O.P.No.61 of 1994 was filed by the respondents for setting aside the said arbitral award. By common order, dated 29.5.1995, O.P.No.44 of 1994 was decreed and O.P.No.61 of 1994 was dismissed by the Principal Senior Civil Judge, Nellore. The effect of the said order was that the arbitral award was made Rule of the Court. Against the order in O.P.No.44 of 1994, the State has filed Civil Revision Petition No.29 of 1996 and against the order in O.P.No.61 of 1994, it has filed Civil Miscellaneous Appeal No.24 of 1996.

During the pendency of the said CMA and CRP, Mr. V.Venku Reddy, who obtained the arbitral award, died on 09.6.2007 and the petitioner herein, who is his daughter, and his mother were brought on record as his legal representatives in the Civil Revision Petition.

Since the mother of the petitioner appeared to have died after dismissal of the afore-mentioned CMA and CRP, the petitioner filed E.P.No.269 of 2015 seeking execution of the arbitral award. The said E.P. was dismissed by the lower Court on two grounds, viz, (1) that as per the proviso to sub-clause-(iii) of Section-214(1)(b) of the Indian Succession Act, the petitioner was required to obtain Succession Certificate and as, no such Succession Certificate has been obtained by her, she is not entitled to seek execution of the arbitral award; and (2) that the arbitral award having been passed on 26.5.1994, limitation of 12 years for execution of the said award has expired in 2007, and that therefore, the E.P. is time barred.

Mr. O.Manohar Reddy, learned counsel for the petitioner, has submitted, and the same is not disputed by the learned Government Pleader for Arbitration (Andhra Pradesh) appearing for the respondents, that the petitioner herein and his mother were brought on record in Civil Revision Petition No.29 of 1996 in place of the deceased-V.Venku Reddy and that

therefore, there was no necessity for the petitioner to obtain Succession Certificate.

A perusal of the copy of the order, dated 01.9.2008, in CRP.No.29 of 1996 shows that the mother of V.Venku Reddy and his daughter-the petitioner herein were brought on record as respondent Nos.3 and 4, respectively, being the legal representatives of the deceased-V.Venku Reddy, as per the Court order, dated 13.8.2007 in CMP.No.3962 of 2007. Therefore, as rightly submitted by the learned counsel for the petitioner, the petitioner being on record as the legal representative of the deceased-V.Venku Reddy in Civil Revision Petition No.29 of 1996, there is no need for her to obtain Succession Certificate. The Court below has committed an error in holding that the petitioner was required to obtain Succession Certificate.

As regards the limitation, the learned counsel for the petitioner has filed a memo, vide U.S.R.No.1647, dated 10.3.2017, along with which, he has filed a copy of order, dated 13.3.1998 in CMP.Nos.3014 of 1997 and 4826 of 1998 in CRP.No.29 of 1996 and submitted that by the said order, this Court has made the interim order, staying the operation of the order of the lower Court making the arbitral award Rule of the Court, absolute subject to condition of deposit of 50% of the decretal amount within a period of three months from that date

and that subsequently, a similar order of stay was passed on 11.6.1999 in CMP.No.11223 of 1999 in CRP.No.29 of 1996, subject to condition of deposit of 50% of the decretal amount. These two orders support the submission of the learned counsel for the petitioner that interim stay of execution of the order of the lower Court which was granted earlier was made absolute on 13.3.1998 and that a fresh interim order to the similar effect was granted on 11.6.1999. He has also submitted that this order continued to be in force till the CRP was dismissed on 01.9.2008. This submission is not disputed by the learned Government Pleader. Thus, in view of the interim order of stay granted by this Court in the afore-mentioned CRP, the petitioner was disabled from executing the decree. Accordingly, the limitation for filing the Execution Petition stopped running during the pendency of CRP.No.29 of 1996, which was dismissed only on 01.9.2008. With the dismissal of the said Civil Revision Petition, the limitation started running again and the petitioner has filed the Execution Petition in the year 2015, *i.e.*, within seven years of dismissal of the afore-mentioned Civil Revision Petition and twelve years of the order making the award Rule of the Court.

In this view of the matter, the Court below has committed an error in holding that the EP filed by the petitioner is barred by limitation.

For the afore-mentioned reasons, the order of the lower Court cannot be sustained and the same is, accordingly, set aside. E.P.No.269 of 2015 on the file of the Principal Senior Civil Judge, Nellore is restored to file. The lower Court is directed to dispose of the said E.P. on merits within three months from the date of receipt of a copy of this order.

Subject to the above direction, the Civil Revision Petition is allowed.

As a sequel to disposal of the Civil Revision Petition, CRPMP.No.8527 of 2016 filed by the petitioner is disposed of as infructuous.

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*JUSTICE C.V.NAGARJUNA REDDY*

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*JUSTICE T.RAJANI*

*14<sup>th</sup> March 2017*

*DR*