

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
C.M.A.Nos.261, 262, 263 and 264 of 2017**

COMMON JUDGMENT: (per Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)

These four appeals, under Section 37 of the Arbitration and Conciliation Act, 1996 r/w Section 13 of the Commercial Courts Act, are preferred against the ex-parte ad-interim orders passed by the XXIV Additional Chief Judge-cum-Commercial Court, City Civil Court, Hyderabad in C.O.P.Nos.63, 65, 61 and 64 of 2017 respectively dated 07.03.2017.

In the orders under appeal, the Court below held thus:

“Heard the counsel for the petitioner. Issue urgent notice to respondents. Meanwhile the respondents are directed to maintain status quo till 16.03.2017.”

On 16.03.2017 the interim orders passed earlier were extended till 24.03.2017, thereafter till 28.03.2017, and thereafter till today.

The submission of Sri C.V.Mohan Reddy, Learned Senior Counsel, appearing on behalf of the appellant (first respondent before the Court below), is that even an ex-parte ad-interim order, restraining the appellant from invoking or encashing the bank guarantee, must contain reasons; and an order passed without reasons is a void order which necessitates being set aside.

Sri D.Prakash Reddy, Learned Senior Counsel appearing on behalf of the 1st respondent-petitioner, does not dispute this submission. His contention, however, is that, for the failure of the Court below to pass a reasoned order, the 1st respondent herein (petitioner in COP) cannot be put to irreparable loss and injury for, if this Court were to set aside the orders under appeals on this ground, the C.O.Ps. before the Court below would be rendered infructuous as the appellant may invoke and encash the bank guarantees tomorrow itself.

While we find force in the submission of both the Learned Senior Counsel, we must also bear in mind that, even though an appeal is a continuation of the original proceedings, passing an order on merits, in these C.M.As, would amount to passing an original order since the Court below had passed the ex-parte ad-interim orders under appeal even before the respondent had entered appearance, and though they had not filed their counter-affidavits. We are saved the trouble of adjudicating these appeals on its merits in view of the submission of Sri C.V.Mohan Reddy, Learned Senior Counsel, that, for a period of 14 days from today i.e. till 18.04.2017, the appellant would not invoke or encash any of these bank guarantees. As the orders under appeals are bereft of reasons, they are set aside. The Court below shall hear C.O.P. Nos.61, 63, 64 and 65 of 2017 with utmost expedition, and pass a reasoned order after hearing Learned Counsel for both the parties.

Both Sri C.V.Mohan Reddy, Learned Senior Counsel appearing on behalf of the appellant, and Sri D.Prakash Reddy, Learned Senior Counsel appearing on behalf of the 1st respondent-petitioner would undertake, on behalf of the respective parties, that no adjournment would be sought, and submissions would be put forth whenever the Court below takes-up the C.O.Ps for hearing.

All the C.M.As are, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

RAMESH RANGANATHAN, ACJ

Dr.SHAMEEM AKTHER, J

Date:04.04.2017.
Issue C.C. by 06.04.2017
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