

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Smt. Justice T.Rajani

Civil Revision Petition No.112 of 2017

Date: 28.03.2017

Between:

P.Sarabandu Raju

... Petitioner

and

Sriram City Union Finance Ltd.
Nidadavolu
rep. by its Divisional Manager G.Venkateswarulu
Rajahmundry and another

...Respondents

Counsel for the Petitioner: Mr.S.Sriramachandra Murthy

Counsel for the respondents: Mr.Maheswara Rao Kunchem

The Court made the following:



Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The issue as to the jurisdiction of a Court to entertain an Execution Petition for enforcement of an arbitral award has been referred by the learned Single Judge to the Division Bench.

A perusal of the reference order shows that the learned Single Judge has taken the view that the views expressed by learned Single Judges in **Ankati Satyamaiah vs. Sallangula Lalaiah and Anr.**¹ **Srei Equipment Finance Private Limited vs. Khyoda Apik and another**² and in **N.Nagaraj vs. M/s.Motilal Oswal Securities Ltd.**,³ were in conflict with that taken in **M/s.Shriram City Union Finance Ltd., vs. Bikki Kanakarathnam and others**⁴ and **Kotak Mahindra Bank Ltd. Vs. Sivakama Sundari, S.Narayana, B.Murthy**⁵.

Indeed, the facts of the present case do not call for an answer to the reference for the simple reason that the main issue as to whether an Execution Petition shall be filed only before the Principal Court of original civil jurisdiction as defined under Section 2 (1) (e) of the Arbitration and Conciliation Act,1996 (for short 'the Arbitration Act') or before any Court other than the

¹ 2003 (2) ALD 818

² GA.No.20 of 2011 in EC.No.142 of 2009, dated 12-05-2011 (Calcutta High Court)

³ WP.No.38220-221/2010 dated 27-06-2012 (Karnataka High Court)

⁴ CRP.No.1950 of 2015, dated 14-09-2015 (High Court of Judicature at Hyderabad)

⁵ 2011 Law Suit (Mad) 2927

Principal Court of original civil jurisdiction by following the principles of the Code of Civil Procedure, 1908 (CPC) as the Execution Petition, which was initially presented in the Court of Senior Civil Judge, Nidadavolu, is stated to have been subsequently transferred to the District Court, Eluru, which satisfies the definition of “Court” under Section 2 (1) (e) of the Arbitration Act.

The only other issue that needs to be resolved is, whether the District Court, West Godavari at Eluru, has jurisdiction to entertain the Execution Petition. The Arbitration Act does not envisage any criteria for instituting the Execution Petition except to the extent that it should be instituted in a Court, which, going by the definition of Section 2 (1) (e) of the Arbitration Act and also the definition of the word ‘District’ under Section 2 (4) of the CPC, is the Principal District Court.

We are in respectful agreement with the view taken in **Ankati Satyamaiah** (1 supra) that while deciding the question as to whether the District Court will have the jurisdiction to entertain an Execution petition, we need to fall back upon Section 20 CPC, as per which, a party can institute a proceeding in a Court within whose jurisdiction the defendant or each of the

defendants where there are more than one at the time of the commencement of the suit, actually and voluntarily reside, or carry on business, or personally work for gain; or any of the defendants, where there are more than one, at the time of commencement of the suit, actually voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or the cause of action wholly or in part, arises.

In the present case, it is not in dispute that the petitioner, at the time of institution of the execution proceedings, was residing and even now is residing within the jurisdiction of the District Court, West Godavari. Therefore, in our opinion, the District Court, West Godavari, has jurisdiction to entertain the Execution Petition filed by the respondent.

In the above view of the matter, we are of the opinion that the Execution Petition was rightly transferred to the District Court, West Godavari at Eluru, and the said Court has jurisdiction to entertain and dispose of the Execution Petition.

For the aforementioned reasons, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, interim order, dated 07-02-2017, is vacated and CRPMP.No.145 of 2017 is disposed of.

(C.V.Nagarjuna Reddy, J)

(T.Rajani, J)

Dt: 28th March, 2017
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