

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE T.RAJANI

CIVIL REVISION PETITION No.406 of 2017

06.04.2017

Between:

M/s.Om Sai Constructions, Kurnool and another

..Petitioners

and

M/s.Shriram Transport Finance Company Ltd., Kurnool and another

..Respondents

Counsel for the petitioners: Mr.K.Muralidhar Reddy

Counsel for respondent No.1: Mr.Y.Narapa Reddy

Counsel for respondent No.2: --

The Court made the following:



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

This civil revision petition arises out of order, dated 01.12.2016, in I.A.No.275 of 2016 in A.O.P.No.155 of 2016 on the file of VI Additional District Judge, Kurnool, whereby he has granted stay of execution of the arbitral award, subject to the condition of the petitioners depositing 1/3rd of the E.P. amount within two months from the date of the said order.

2. At the hearing, Mr.K.Muralidhar Reddy, learned counsel for the petitioners, has submitted that since a copy of the arbitral award was not furnished to his clients as mandated by Section 31(5) of the Arbitration and Conciliation Act, 1996 (for short 'the Act'), the very arbitral award itself is a nullity.

3. In our *prima facie* opinion, non-furnishing of copy of the arbitral award would only postpone the limitation for filing a petition for setting aside the arbitral award. Admittedly, the petitioners had knowledge of the passing of the arbitral award at least on 21.07.2014, when they made appearance in the E.P. proceedings.

4. The learned counsel for the petitioners has submitted that on 14.03.2016, his clients have filed an application for furnishing the certified copy of the arbitral award.

5. Under Section 34(3) of the Act, an application for setting aside the arbitral award shall not be made after lapse of three months from the date on which the party making that application had received the arbitral award. However, under the proviso thereto, it is envisaged that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months, it may

entertain the application within a further period of thirty days, but not thereafter.

6. The claim of the petitioners that copy of the arbitral award has not been furnished to them needs to be adjudicated in the E.P. itself. Therefore, we do not intend to draw any conclusive opinion on this aspect. The fact, however, remains that in spite of their having knowledge of the passing of the arbitral award at least on 21.07.2014, the petitioners kept quiet till 14.03.2016, when for the first time they claimed to have made the application for furnishing the certified copy of the arbitral award. In this view of the matter, we do not find any reason to interfere with the discretion exercised by the lower Court, by which it has stayed the execution of the arbitral award on condition of the petitioners depositing 1/3rd of the E.P. amount. Indeed, the Court below is lenient enough in staying 2/3^{rds} of the amount payable under the arbitral award.

7. In the aforementioned facts and circumstances of the case, we do not find merit in this Civil Revision Petition and the same is, accordingly, dismissed.

8. As a sequel to dismissal of the C.R.P., C.R.P.M.P.No.509 of 2017 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

T.RAJANI, J

06th April, 2017
GHN