

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SMT JUSTICE T.RAJANI

CIVIL REVISION PETITION No.5955 of 2016

Date:19.01.2017

Between.

K.Venu Gopal,
S/o K.Somanjaiah
and another.

..... Petitioners

And.

M/s Shriram City Union Finance
Limited, Chennai, having its Branch
Office at Secunderabad, repled by its GPA
Holder-Mr. K.V.Ramana

.....Respondent

Counsel for the Petitioners: Mr. P.Ravi Shanker

Counsel for the Respondent: Mr. Kuncham Maheswara Rao

The Court made the following:

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

The short issue that arises for consideration in this Civil Revision Petition, filed under Article 227 of the Constitution of India, is whether the lower Court was correct in entertaining the Execution Petition filed for execution of the award passed prior to coming into force of the Arbitration and Conciliation (Amendment) Act, 2015 (for short 'the Amendment Act').

The admitted facts of this case are that the respondent has secured an arbitral award on 31.3.2015. Challenging the said award, the petitioners have filed Arbitration O.P.No.805 of 2015 on the file of the learned Chief Judge, City Civil Court, Hyderabad on 25.4.2015.

Under Section-34 of the Arbitration and Conciliation Act, 1996 as it stood then, if an application for setting aside the arbitral award was made, the said award could be enforced only after such application has been refused, which necessarily means that during the pendency of such application, the award cannot be enforced.

Under Section-36 of the Amendment Act, which came into force with effect from 23.10.2015, where an application to set aside the arbitral award has been filed in the Court under Section-34 thereof, filing of such application shall not render the award unenforceable, unless the Court grants an order of

stay of operation of the said arbitral award on a separate application made for that purpose.

Section-26 of the Amendment Act, however, exempted the amended provisions from application to the arbitral proceedings commenced in accordance with Section-21 of the Principal Act before the commencement of the Amendment Act.

Admittedly, in the instant case, not only that the arbitral proceedings were commenced, but also they have culminated into passing of award on 31.3.2015 itself, *i.e.*, much prior to the commencement of the Amendment Act. Therefore, the provisions of Section-36 of the Amendment Act are not attracted to the award under challenge in Arbitration O.P.No.805 of 2015.

A fortiori, the respondent was not entitled to file E.P. till disposal of the said Arbitration O.P., as O.P.No.805 of 2015 continues to be governed by the pre-amended provisions of the principal Act.

In the light of the above position in law, the lower Court is directed to de-register E.P.No.117 of 2016 and return the same to the respondent with liberty to the respondent to file a fresh execution proceeding subject to the result of Arbitration O.P.No.805 of 2015.

The Civil Revision Petition is, accordingly, allowed.

As a sequel to disposal of the Civil Revision Petition,
CRPMP.No.7783 of 2016 filed by the petitioners for interim
relief is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.RAJANI

19th January, 2017

DR

