

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI

C.R.P.NO.1367 OF 2015

ORAL ORDER (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Against the award dated 15.12.2012 passed by the Arbitrator in O.P.No.721/1999, the petitioner herein, who is the judgment-debtor, filed O.P.No.1012/2012 on the file of I Additional District and Sessions Judge, Rangareddy District under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act'). The same is pending adjudication. However, the decree holder, the respondent herein, filed E.P.No.221 of 2013 under Order 21, Rule 54 of CPC, on the file of Principal Senior Civil Judge, Rangareddy District, seeking recover of the decretal amount by way of attachment of immovable property of the judgment-debtor. By order and decree dated 7.11.2014, the court below allowed the execution petition. Aggrieved by the same, the present revision is filed.

Under Section 36 of the Act, it is only when the time for making an application, to set aside the arbitral award under Section 34, has expired or such application having been made, it is refused, the award can be enforced in accordance with the Code of Civil Procedure in the same manner as if it were a decree of the court. Once an application is filed within time to set aside the arbitral award under Section 34 of the Act, and if the said application is pending consideration before the civil court, no proceedings can be taken for execution of the award.

The learned counsel appearing for the respondent – decree holder does not dispute the above proposition of law.

As the court below entertain the execution petition and passed the impugned order of attachment, pending the application of the petitioner under Section 34 of the Act for setting aside the award dated 15.10.2012, the same cannot be sustained. Consequently, the impugned order dated 7.11.2014 passed in E.P.No.221 of 2013 is hereby set aside.

Since the arbitration proceedings were initiated during the year of 1999 and the award was passed on 15.10.2012, we hereby direct the court of I Additional District Judge, Rangareddy to decide O.P.No.1012 of 2012 filed under Section 34 of the Act, within a period of three months from the date of receipt of a copy of this order.

The revision is disposed of accordingly. No costs.

Miscellaneous petitions pending if any, shall stand closed.

SURESH KUMAR KAIT,J

N.BALAYOGI,J

DATE:09—08—2017

AVS