

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

CIVIL REVISION PETITION No.5774 of 2017

ORDER: (per Justice Sanjay Kumar)

This civil revision petition under Section 115 C.P.C. was filed by the second judgment debtor in Arbitration Case No.64 of 2011 from which E.P.No.21 of 2016 on the file of the learned X Additional Chief Judge, City Civil Court, Hyderabad, arose. He is aggrieved by the order dated 06.03.2017 passed by the said Executing Court directing attachment of his salary pursuant to the Award passed in Arbitration Case No.64 of 2011.

The petitioner filed O.P.No.1268 of 2013 under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act of 1996'), before the learned III Additional Chief Judge, City Civil Court, Hyderabad, to set aside the Award in Arbitration Case No.64 of 2011. It was only in the year 2016 that execution proceedings were initiated by the decree holder- M/s.Shriram City Union Finance Limited, the first respondent herein.

In the light of Section 36 of the Act of 1996, as it stood at the relevant point of time, filing of an application under Section 34 to set aside the Arbitration Award would operate automatically as a stay of the Arbitration Award which is under challenge. This Court also held to this effect in *The Government of Andhra Pradesh v. Potluri Srinivas*¹.

In the light of this settled legal position, the very institution of execution proceedings by the first respondent during the pendency of the proceedings under Section 34 of the Act of 1996 cannot be countenanced.

The civil revision petition is accordingly allowed holding that E.P.No.21 of 2016 on the file of the learned X Additional Chief Judge, City

¹ CRP.No.6172 of 2016 decided on 13.02.2017

Civil Court, Hyderabad, was not maintainable in the light of the pendency of O.P.No.1268 of 2013 filed under Section 34 of the Act of 1996 before the III Additional Chief Judge, City Civil Court, Hyderabad. Needless to state, the first respondent/decreed holder would be at liberty to take steps, if warranted, after the disposal of O.P.No.1268 of 2013.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 08.12.2017
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