

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

AND

THE HON'BLE SMT. JUSTICE T.RAJANI

CIVIL REVISION PETITION No. 6172 OF OF 2016

DATED 13TH FEBRUARY, 2017

Between:

The Government of Andhra Pradesh,
Rep. by its Principal Secretary,
Irrigation and Command Area Development Department,
Secretariat, Hyderabad, and others ... Petitioners

AND

Potluri Srinivas and another ... Respondents

Counsel for the petitioners : Advocate General (A.P.)

Counsel for respondent No. 1 : Sri C.V.R.Rudra Prasad

Counsel for respondent No. 2 : --

THE COURT MADE THE FOLLOWING

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

This civil revision petition arises out of order dated 25-10-2016 in I.A.No. 1085 of 2016 in A.O.P.No. 30 of 2016 on the file of the Court of I Additional District Judge, West Godavari at Eluru (for short, 'the Court below').

2. We have heard learned Special Government Pleader (A.P.) and Sri C.V.R.Rudra Prasad, learned counsel for respondent No. 1.

3. Respondent No. 2 has passed an arbitral award in favour of respondent No. 1 on 19-09-2015. The petitioners have filed A.O.P.No. 30 of 2016 questioning the said arbitral award. Pending the said O.P., respondent No. 1 has filed E.P.No. 268 of 2016 on the file of the Court of Principal District Judge, West Godavari at Eluru, seeking attachment of movables belonging to the petitioners. The petitioners filed I.A.No. 1085 of 2016 for stay of all further proceedings in E.P.No. 268 of 2016. By order under revision, the Court below granted stay of all further proceedings in the E.P. subject to the petitioners depositing 50% of the award amount within 90 days from the date of the order. Assailing this order, the petitioners filed the revision petition.

4. Section 19 of the Arbitration and Conciliation (Amendment) Act, 2015 (for short, 'the Amendment Act'), substituted Section 36 of the Arbitration and Conciliation Act, 1996 (for short, 'the Principal Act'). Sub-section (2) of Section 19 of the Amendment Act provided that when an application to set aside the arbitral award has been filed in the Court under Section 34, the filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award in accordance with the provisions of sub-section (3), on a separate application made for that purpose. Section 26 of the Amendment Act, however, exempted the amended provisions of the Act from application to the arbitral proceedings commenced, in

accordance with the provisions of Section 21 of the Principal Act, before the commencement of the Amendment Act unless the parties otherwise agree.

5. In the instant case, not only that the arbitral proceedings were commenced before the commencement of the Amendment Act but also the award was passed on 19-09-2015 which is earlier to the commencement of the Amendment Act *i.e.* 23-10-2015. In view of the above admitted position, the un-amended provisions of Section 36 of the Principal Act will continue to apply to A.O.P.No. 30 of 2016 and pendency of the said proceedings shall operate stay of execution of the arbitral award. Hence, the Court below has committed a serious error in granting stay of the execution proceedings, subject to the terms as indicated above, as the very E.P. itself is not maintainable during the pendency of A.O.P.No. 30 of 2016.

6. For the aforementioned reasons, the order under revision is set aside. E.P.No. 268 of 2016 is declared as closed with liberty to respondent No. 1 to file a fresh E.P. depending upon the result of A.O.P.No. 30 of 2016. The lower Court is directed to dispose of A.O.P.No. 30 of 2016 after hearing both parties within six months from the date of receipt of a copy of this order.

7. The civil revision petition is, accordingly, allowed.

8. As a sequel to disposal of the civil revision petition, C.R.P.M.P.No. 713 of 2017 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

Date: 13-02-2017.

JSK

T.RAJANI, J.