

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

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

A.S.No.696 of 2016

Date: 03.04.2018

Between:

M/s.IVRCL Infrastructures & Projects Ltd.,
registered office at M-22/3RT,
Vijayanagar Colony, Hyderabad
rep. by its Managing Director
and another

...

Appellants

And

M/s.Hindustan Corporation,
Dealer of HPC Limited at
Yellandu, Khammam, Telangana,
a proprietary firm rep. by its
Proprietor Satyanarayan Thotla
and another

...

Respondents



Counsel for the Appellants : Mr. S.Srinivas Reddy

Counsel for the Respondents: Mr.V.Subrahmanaym for R2

Mr.Syamsunder Kondapalli
for Mr.L.Ravichander for R1

The Court made the following:

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

Defendants No.1 and 2 in O.S.No.12 of 2007, filed this appeal, assailing the judgment and decree dated 02.03.2015 in O.S.No.12 of 2017 on the file of V Additional District Judge, Kothagudem. The appellants have filed A.S.M.P.No.2460 of 2017, for disposing of the appeal, duly recording the terms and conditions of memorandum of understanding dated 25.04.2017, entered between the parties. Along with this application, the appellants have filed joint memorandum of understanding signed by the parties representing the appellants and the respondents.

2. Sri S.Srinivas Reddy, learned counsel for the appellants, submitted that respondent No.2/defendant No.3, is a proforma party and that his consent for compromise is not required, as he was only an employee of appellant No.1. He further submitted that the Managing Director of appellant No.1 has mistakenly signed for respondent No.2 under a *bona fide* impression that he was impleaded in his individual capacity also, as respondent No.2, as his name as well as the name of respondent No.2 are the same, except the surname. The learned counsel further submitted that in pursuance of the joint memorandum of understanding, the appellants have paid a sum of Rs.42 lakhs, in final settlement of all the claims of respondent No.1 in instalments and that the last payment was made on 25.11.2017.

3. Mr.Syamsunder Kondapalli, learned counsel representing Mr.L.Ravichander, learned senior counsel for respondent No.1, conceded the submissions of the learned counsel for the appellants and also admitted that the appellants have paid the agreed sum of Rs.42 lakhs in full and final settlement of the claims of respondent No.1

4. In the facts and circumstances of the case, the decree under appeal in O.S.No.12 of 2017 on the file of V Additional District Judge, Kothagudem, is set aside. The appeal is allowed in terms of the joint memorandum of understanding dated 25.04.2017, entered between the parties.

5. As a sequel, I.A.No.1 of 2017 (A.S.M.P.No.2460 of 2017) is, accordingly, allowed.

(C.V.Nagarjuna Reddy, J)

(D.V.S.S.Somayajulu, J)

Date: 03rd April, 2018

msb

