

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
and
THE HON'BLE SRI JUSTICE N. BALAYOGI**

Civil Revision Petition No.706 of 2018

12-07-2018

Between:

M/s. Tarachand Logistics Solutions Limited,
Azad Manzil, D.No.27-3-17, 85th lane,
Official Colony, Sringer, Gajuwaka,
Visakhapatnam.

... Petitioner

Vs.

Rashtriya Ispat Nigam Limited, Visakhapatnam
Steel Plant, Administrative Building,
Visakhapatnam, represented by its Assistant
General Manager (Marketing), Sri Chakkirala
Srinivasa Rao and 3 others

.. Respondents

Counsel for the Petitioner : Mr. S. Rajan

Counsel for the respondents : Mr. A. Krishnam Raju

< Gist:

> Head Note:

? Cases referred:

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE N. BALAYOGI

Civil Revision Petition No.706 of 2018

ORDER: *(V. Ramasubramanian, J)*

Aggrieved by the grant of stay of execution of the award by the Court to which a petition under Section 34 of the Arbitration and Conciliation Act, 1996 was filed, the award holder has come up with the above Civil Revision Petition.

2. Heard the learned counsel on both sides.

3. The dispute between the petitioner and the 1st respondent was referred to arbitration and the Arbitral Tribunal passed an award on 25-07-2016. As against the award, the 1st respondent has filed O.P.No.923 of 2017 under Section 34 of Act. The 1st respondent also moved an application for stay of execution of the award in I.A.No.896 of 2017. The stay application was allowed by the Court below granting stay of execution, subject to the only condition that the 1st respondent pays costs of Rs.5,000/-. Aggrieved by such an order, the award holder has come up with the above revision.

4. The total amount for which an award was passed in favour of the petitioner is Rs.1,38,25,813/-. The Court below, while granting interim stay, did not take into account (i) the existence of *prima facie* case in the light of the parameters available for the Court under Section 34; (ii) the balance of convenience and (iii) the irreparable hardship that would be caused to either of the parties by granting or

not granting the stay. Even in normal first appeals, the regular Civil Court will be loathe to grant an absolute stay.

Therefore, the Civil Revision Petition is allowed and the matter remanded back to the trial Court. It is stated that the matter is now pending before the Commercial Court. The Commercial Court may take up the application for stay, hear both parties and pass a reasoned order after taking note of the parameters for granting stay. The application shall be disposed of within a period of eight (8) weeks.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.



V. RAMASUBRAMANIAN, J

N. BALAYOGI, J

Date: 12-07-2018

Ksn