

THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON' BLE SRI JUSTICE T. AMARNATH GOUD

CIVIL REVISION PETITION No.1178 OF 2018

Date:23.02.2018

Between:

Suraj Narang S/ o.Sri Hari Bhagwan K. Narang,
Aged about 39 years, Occ: Business,
H.No.8-2-121/ 76/ A/ 1, Road No.2,
Banjara Hills, Hyderabad.

...Petitioner

Vs.

Smt. Anmol Narang W/ o.Sri Bharat Narang,
Aged about 40 years, Occ. Business,
P/ o.C-302, Asian Manor, Road No.2,
Banjara Hills, Hyderabad and others.

... Respondents

Counsel for petitioner : Sri Vedula Srinivas

Counsel for Respondents : M s. S & S Law Associates

Gist :

Head Note :

Cases Referred : Nil



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ORDER: (per V. Ramasubramanian, J)

Aggrieved by a condition imposed by the Court below for granting stay of execution of an arbitration award, the award debtor has come up with the above revision.

2. Heard Mr.Vedula Srinivas, learned counsel for the petitioner. M/s.S & S Law Associates take notice for the respondents 1 and 2 and they are represented by Mr. V.L.N.G.K. Murthy, learned Senior Counsel.

3. By an award passed on 06.02.2017, the Arbitrator directed the petitioner herein and the 2nd respondent Partnership Firm to pay to the 1st respondent herein, a sum of Rs.83,26,623/- with interest at 6%per annum till the date of realization and also to continue to pay 60%share of profits on the activity of doing business for every Assessment Year from 2017-2018 till the firm is dissolved. Aggrieved by the said award, the petitioner herein filed O.P. No.1626 of 2017 on the file of the XI Additional Chief Judge, City Civil Court, Hyderabad, under Section 34 of the Arbitration and Conciliation Act, 1996. Along with the main petition, the petitioner moved an application for suspension and stay of the award in I.A No.931 of 2017. After hearing arguments, the stay petition was disposed of by the Court below granting a stay of the award till the disposal of the main O.P. on condition that the petitioner deposited Rs.20,00,000/- within three (3) weeks.

3. Contending that the condition imposed for the grant of stay was onerous and that the award itself was wholly unsustainable

warranting a blanket stay, the 1st award debtor has come up with the above revision.

4. The contention of the learned counsel for the petitioner is that the parameters for grant of stay pending a petition under Section 34 of the Arbitration and Conciliation Act, 1996, are exactly the same as those found in order 41 Rule 5 CPC and that when the award was hopelessly incorrect, the Court ought to have applied those principles and granted a blanket stay.

5. But, we do not agree. Even in a regular first appeal arising out of a judgment and decree of a normal Civil Court, this Court generally grants stay on condition that the judgment debtor deposits a particular portion of the decree debt. All that the Court below has done is to direct the petitioner to deposit less than 25% of the quantified award debit.

6. It is needless to point out that whenever we deal with a regular first appeal under Section 96 CPC, our jurisdiction is same as that of the trial Court. But, it is not so in respect of a petition under Section 34 CPC. Considering the limitations that the Court below had in view of Section 34 CPC, we think that the Court below did what is best for the petitioner, by granting stay on condition that the petitioner deposited just less than 25% of the quantified award debt. In such circumstances, we see no reason to interfere with the discretion so exercised by the Court below. Hence, the Civil Revision Petition is dismissed.

7. However, the learned counsel for the petitioner sought enlargement of time to comply with the conditional order. Considering the circumstances and the relationship between the parties, the

petitioner is granted time up to 30th April, 2018, to make payment of the amount as ordered by the Court below.

8. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

T. AMARNATH GOUD, J

February 23, 2018
KTL

