

* 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 T. AMARNATH GOUD

+ CIVIL REVISION PETITION No.1456 of 2018

% Date: 02-03-2018

Between:

1. M/s. India Sign Pvt. Ltd., 3rd Floor, Plot No.202, Road No.76, Jubilee Hills, Hyderabad-500 033.
2. M/s. India Sign Pvt. Ltd., A-48, Hartron Complex, Sector-18, Electronic City, Gurgaon – 122015
(Both rep. by Mr. D. Durga Prasad Asst. Manager, Authorized Signatory)

...petitioners/Appellants

Vs.

1. M/s. Prajavani Broadcasting Pvt. Ltd., having its registered and Corporate Office at # paigha Plaza, Basheerbagh, Hyderabad – 500 029.
2. Mr. Gaurav Sanghi, Director, Vaartha Broadcasting Private Limited at Plot No.396, Vaartha Building, Lower Tank Bund Road, Hyderabad – 500 080.
3. Sri P.S. Reddy, Hon'ble Sole Arbitrator, Room No.512, Topaz Building, Amrutha Hills, Punjagutta, Hyderabad.

... Respondents

! Counsel for the petitioner

: Mr. A. Venkatesh
Ms. B. Pratusha

^ Counsel for the respondentNo.1

: Mr. K. Maheswar Rao

<GIST:

> HEAD NOTE:

? Cases referred

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

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ORDER: (per VRS, J)

Aggrieved by the refusal of the Commercial Court to formally number an application filed under Section 14 of the Arbitration and Conciliation Act, 1996 and to adjudicate upon the same on merits, the persons, who were respondents in the Arbitration proceedings, have come up with the above revision petition.

2. Heard Ms. B. Prathusha, learned counsel for the petitioners.

3. Dehors the manner in which the Commercial Court dealt with the application filed by the petitioners, the fact remains that the objection of the petitioners is to the very maintainability of the Arbitration proceedings. According to the petitioners, there was no Arbitration Agreement, and that therefore, the reference of the dispute by respondents 1 & 2 to a Sole Arbitrator, viz., the 3rd respondent herein, was not at all maintainable.

4. But unfortunately, the petitioners appear to have taken recourse to a wrong remedy. Section 14 is not the provision that deals with the competence of the Arbitral Tribunal to deal with a dispute. Section 14 deals with the termination of the mandate of the Arbitrator, either upon his failure or upon his impossibility to act. In other words, an application under Section 14 presupposes the existence of an Arbitration Agreement, but the inability of the Arbitrator to proceed with the Arbitration, either on account of his own failure or on account of his impossibility to act.

5. A case where the very existence of the Arbitration Agreement is denied would not fall under Section 14, but may fall under Section 16. Therefore, the Commercial Court was right in eventually dismissing the

application under Section 14 as not maintainable, irrespective of the reasons given by the Commercial Court. Hence, we see no reason to entertain the civil revision petition. Therefore, it is dismissed. There shall be no order as to costs.

6. As a sequel, miscellaneous petitions, if any, pending in this revision shall stand closed.

V.RAMASUBRAMANIAN, J

T. AMARNATH GOUD, J

2nd March, 2018
Js



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(per VRS, J.)



2nd March, 2018.

Js