

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

AND

THE HON'BLE SRI JUSTICE P.KESHA RAO

C.M.A.No.216 of 2018

Date: 01.11.2018

Between:

M/s.Anoo's Electrolysis and Obesity Pvt. Ltd.,
Plot No.90, Sai Plaza,
Sangeeth Nagar,
Erramanzil,
Hyderabad-500082
rep. by its Director
Mrs.Anuradha Chepyala

...

Appellant

And

M/s.Sree Enterprises,
Plot No.1 and 2, Survey No.99-A,
Balaji Empire,
Third Floor,
Madinaguda,
Hyderabad 500031,
rep. by its Proprietor
Mr.Y.Srinivas Reddy.

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Respondent

Counsel for the Appellant : Mr. M.V.Pratap Kumar

Counsel for the Respondent: Mr.Koppula Gopal for
Mr. Kollu Rajasekhar

The Court made the following:

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

This civil miscellaneous appeal is filed against order dated 22.12.2017 in Arbitration O.P.No.2235 of 2017 on the file of the XXV Additional Chief Judge, City Civil Court, Hyderabad.

2. We have heard Mr.M.V.Pratap Kumar, learned counsel for the appellant and Mr.Koppula Gopal, learned counsel representing M.Kollu Rajasekhar.

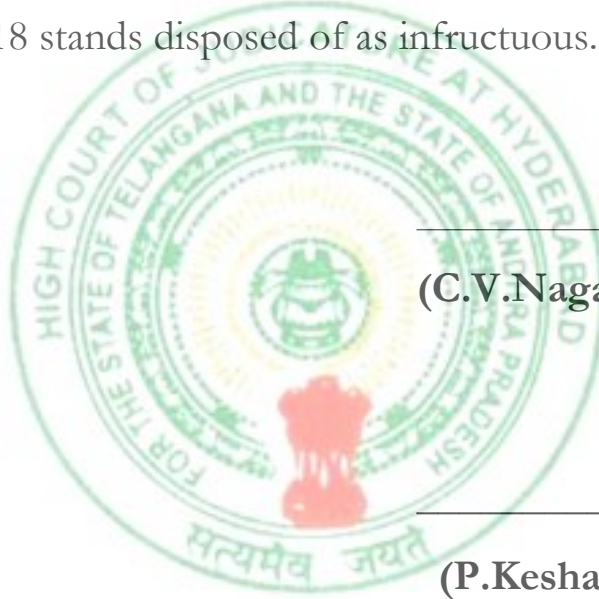
3. The core dispute between the appellant and the respondent pertains to existence or otherwise of a franchise agreement and the alleged violation of terms of the agreement indulged in by the respondent. As rightly observed by the lower court, the power of the civil court under Section 9 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') to grant interim relief, is transient till such time the arbitrator is seized of the case and exercises his power to grant or continue the interim measures if already granted. Admittedly, till today, the appellant has not even filed an application for appointment of an arbitrator under Section 11 of the Act. The learned counsel submitted that after exchange of notices between the parties, filing of such an application is contemplated by the appellant. Assuming that the respondent has been misusing the name of the appellant and unjustly enriching itself, the appellant is entitled to

claim compensation towards damages from the respondent, before the arbitrator.

4. In the light of these facts and circumstances of the case, we do not find any reason to interfere with the order of the lower court.

5. The civil miscellaneous appeal is accordingly dismissed, subject to the observations made herein before.

6. As a sequel to the disposal of the civil miscellaneous appeal, I.A.No.1 of 2018 stands disposed of as infructuous.



(C.V.Nagarjuna Reddy, J)

(P.Keshava Rao, J)

Date: 01st November, 2018

msb

