

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

AND

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

C.R.P.No.2478 of 2018

Date: 24.04.2018

Between:

The Union of India represented by
its Commander of Works Engineer,
Station Road, Waltair Railway Station,
Visakhapatnam

...

Petitioner

And

M/s.Friends Construction Corporation,
Mothisadhan, Opp.LIC Building,
Sevak Road, Silguri 734401

...

Respondent

Counsel for the Petitioner :

Mr.K.Lakshman
Assistant Solicitor General of
India

Counsel for the Respondent:

The Court made the following:

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

This civil revision petition arises out of order dated 06.03.2018 in I.A.No.90 of 2006 in O.P.No.34 of 1996 on the file of the Principal Senior Civil Judge, Visakhapatnam.

2. We have heard the learned Assistant Solicitor General and perused the record.

3. The petitioner has suffered an arbitral award in connection with agreement No.CWE/VIZ/17 of 1985-86. It has questioned the said Award by filing O.P.No.34 of 1996. However, in the said O.P., the petitioner has mentioned contract agreement number as CWE(C&A)/3 of 1986-87, which was admittedly unrelated to the award questioned in the O.P. The O.P. was dismissed on 01.04.2005 by the lower court on the ground that the same did not pertain to the award passed in connection with agreement No.CWE/VIZ/17 of 1985-86. Instead of filing a fresh O.P. by mentioning the correct agreement number, the petitioner has carried the matter in Civil Revision Petition No.6362 of 2006. When the said revision was pending, obviously on legal advice, the petitioner has filed I.A.No.90 of 2006 under Order 47 Rule 1 r/w. Section 151 C.P.C. to review order dated 01.04.2005, dismissing O.P.No.34 of 1996. Thereafter, C.R.P.No.6362 of 2006 was dismissed on 22.12.2006.

4. After considering the objection as to the maintainability of the review petition raised by the respondent, the lower court has dismissed the I.A. on two grounds, namely, (1) that the review was barred by limitation (2) and that there was no error apparent on the face of the order, dismissing the O.P.

5. In the manner we propose to dispose of the revision petition, we find it not necessary to refer to the aspect of limitation. It is not in dispute that the petitioner has referred to a wrong agreement number in the O.P. On the said ground, the O.P. was dismissed by the lower court by its order dated 01.04.2005. The lower court has applied a very relevant test *viz.*, whose error the court can correct and whose record it should correct, in the review petition. As rightly held by it, it is not a mistake committed by the court in the order passed by it, which could be rectified on exercise of review jurisdiction by it. The counsel, who represented the petitioner in the OP, ought to have been vigilant by seeking permission of the lower court to correct the error committed in the O.P., by substituting the wrong agreement number with correct agreement number. That was not done. At least, since the O.P. was dismissed on technical reasons and not on merits, the petitioner should have filed a fresh O.P. for challenging the award by mentioning the correct contract agreement number.

Even that was not done. Therefore, the petitioner failed to correct its own errors and institute appropriate legal proceedings and instead, it has filed the I.A., seeking review of the order, which did not contain any error apparent on its face. The court below in our opinion, therefore, rightly held that no error which could be corrected under the provisions of Section 114 r/w. Order 47 Rule 1 C.P.C. exists, for such correction.

6. In this view of the matter, we do not find any illegality or jurisdictional error in the order of the lower court, for our interference in exercise of our revisional jurisdiction under Section 115 of the Code of Civil procedure.

7. Accordingly, the civil revision petition is dismissed.

8. As a sequel to the dismissal of the C.R.P., miscellaneous applications if any, stand dismissed.

(C.V.Nagarjuna Reddy, J)

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

Date: 24th April, 2018

msb

