

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

CIVIL REVISION PETITION No.3390 OF 2018

ORDER: *(per Hon'ble Sri Justice Ramesh Ranganathan)*

Heard both Sri S.Satyanarayana Prasad, learned Senior Counsel appearing on behalf of the petitioner and Sri O.Manohar Reddy, learned counsel appearing on behalf of Ms.V.Anita, learned counsel for the respondent.

This Revision Petition is filed, under Article 227 of the Constitution of India, against the order passed by the XIV Additional District Judge, Ranga Reddy District, in I.A .No.379 of 2018 in O.P. No.841 of 2015, dated 06.04.2018. The petitioner herein filed an application, under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act'), requesting the XIV Additional District Judge, Ranga Reddy District to set aside the award passed by the Arbitrator. O.P. No.84 of 2015 was taken up for hearing, and an order was passed on 15.03.2018 treating arguments of the petitioner as having been heard.

The petitioner filed I.A No.349 of 2018 requesting the Court to set aside the order dated 15.03.2018, and to hear the O.P. on merits. In his order dated 15.03.2018, the learned XIV Additional District Judge had recorded that the petitioner and the respondent were present; the counsel for the petitioner was absent even at 4.15 p.m; the counsel for the respondent was present, he had referred to Section 34(6) of the Act, and had sought expeditious disposal; that day was the date chosen by the petitioner for arguments; the matter was posted for orders for the past several

months at the request of the petitioner; yet the counsel for the petitioner was absent; and, therefore, further arguments of the petitioner was taken as heard. The case was posted to 02.04.2018 for hearing the respondent.

Sri S.Satyanarayana Prasad, learned Senior Counsel, would submit that the petitioner had filed I.A. Nos.639, 640 and 641 of 2017 wherein they had sought an injunction to restrain the respondents from interfering with the petitioner's possession of the subject land, and the building under the Development Agreements; instead of taking up the I.As., the learned Judge took-up the main OPs itself for hearing; and, without even giving the petitioner a reasonable opportunity of being heard, the right of the petitioner to put forth their oral submissions was denied.

On the other hand Sri O.Manohar Reddy, learned counsel for the respondent, would submit that the docket orders, ever since 27.10.2017, would show that, despite numerous adjournments, the petitioner had, on one excuse or the other, avoided putting forth his submissions in the application filed, under Section 34 of the Act, to set aside the Award; and the Court below was, therefore, justified in holding that the petitioner's arguments were heard; and the respondents should put forth their arguments.

Section 34 (6) of the Act requires the Court below to decide the O.P. with utmost expedition, and to dispose it of within a period of one year. Sri S.Satyanarayana Prasad, learned Senior Counsel, would submit that the O.P. was filed before the amendment to the 1996 Act by insertion of sub-section (6) in Section 34 of the Act; and the time of one year, prescribed therein, would not apply to O.Ps filed prior thereto. Be that as it may, the

petition filed to set aside the Award is pending, on the file of the learned Judge, for the past three years. The discretion exercised by the Court below, in taking up the main O.P. itself for hearing instead of adjudicating the I.As., cannot therefore be faulted. The docket proceedings reflect several adjournments having been granted to the petitioner to put forth their submissions. It does appear that it is only because the petitioner failed to avail the several opportunities given to them to put forth their oral submissions, was the Court below constrained to hold that the petitioner's arguments were closed, and the respondents should put forth their arguments.

Though we find it difficult to hold, in view of the several adjournments granted to the petitioner earlier, that the Court below was not justified in granting any further time, we accede to the request of Sri S.Satyanarayana Prasad, learned Senior Counsel, that one final opportunity be given to the petitioner to put forth their oral arguments. Sri O. Manohar Reddy, learned counsel for the respondent, would submit that a timeframe be stipulated for the petitioner to commence and conclude their arguments.

Suffice it, therefore, to set aside the order under revision, and to request the Court below to give the petitioner another opportunity to put forth their submission on the next date of hearing, which shall be fixed on any day after three (3) weeks from today. Arguments, on behalf of the petitioner, shall be advanced on each day of hearing as fixed by the Court below. The hearing shall, preferably, be conducted on a day to day basis, and completed with utmost expedition. It is made clear that, in case the petitioner fails to avail the opportunity of putting forth their

submissions before the Court below in the main O.P on the next date of hearing, or on the hearing dates thereafter, it is open to the Court below to close their arguments, hear the respondent, and pass an order thereafter in accordance with law.

The Civil Revision Petition is disposed of accordingly. No order as to costs.

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

RAMESH RANGANATHAN, J

July 25, 2018

CTL

N. BALAYOGI, J

