

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N.BALAYOGI

+ Civil Revision Petition No.3258 of 2018

% 14-6-2018

Aboobakar Shaik, S/o Shaik Saleh, Aged 48 years,
Occ: Business, R/o H.No.5-6-261/4,
New Agapura, Hyderabad

... Petitioner/Respondent No.1

Vs.

\$ 1. M/s. Shriram City Union Finance Ltd.,
Karimnagar-I Branch, Rep. by its Authorized
Signatory and Power of Attorney Holder
K.Rajendra Kumar, S/o Rajkumar,
Aged 39 years, R/o Karimnagar

... Respondent/Petitioner

2. Sole Arbitrator Sri S.Anantasayana Prasad,
R/o H.No.1-8-588, II Floor, Hero Showroom,
Besides Land Mark Hotel, Nakkalagutta,
Hanamkonda, Warangal Dist.

3. Syed Wajid Ali, S/o Ghouse Syed, Aged 64 years,
Occ: Business, R/o H.No.6-6-755,
Ambedkar Nagar, Karimnagar

... Respondents/Respondents

! Counsel for the Petitioner: Mr. H.Venugopal

Counsel for Respondents 1to3: ---

< Gist:

> Head Note:

? Cases referred:
Nil.

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Order: (per V.Ramasubramanian, J.)

Aggrieved by the repeated returns made by the Principal District Court, Warangal, to a petition under Section 34 of the Arbitration and Conciliation Act, 1996, the award-debtor has come up with the above revision petition.

2. Heard Mr. H.Venugopal, learned counsel for the petitioner.

3. The petitioner filed AOP SR No.5704/2017 on the file of the Principal District Court, Warangal, under Section 34 challenging an arbitration award. But the signed copy of the award as required by the provisions of the Act and the Rules was not enclosed to the O.P. A xerox copy of the signed copy of the award was filed by the petitioner claiming that he was set *ex parte* in the proceedings and that no signed copy of the award was sent to him as required by the Act and that therefore he was compelled to file only a xerox copy. It was also claimed by the petitioner in the O.P. that even in the execution petition laid by the award-holder, only an unsigned copy of the award was enclosed and that therefore when he made an application for the issue of a certified copy, the Executing Court refused the same.

4. However, since the Statute requires a signed copy of the award to accompany a petition under Section 34, the Principal District Court was compelled to return the O.P. twice on the

ground that without complying with the requirements of law, the O.P. cannot be entertained.

5. Though technically the Court below is right, no party can be put in a catch-22 situation. Just as there is a requirement on the part of the petitioner to file the signed copy of the award along with the O.P., there is also a requirement statutorily on the part of the Arbitrators to send a signed copy of the award. One obligation has a direct connection to the other obligation. Therefore, the rights of parties cannot be defeated by trying to implement only one part of the obligations.

6. In such circumstances, appropriate course open to Courts is to number the O.P., subject to maintainability, limitation and all other objections and to give an opportunity to both parties to contest the claim. Therefore, the civil revision petition is disposed of directing the Principal District Court, Warangal, to number the O.P. and issue notice to the parties and hear the matter on all questions including the questions of maintainability, the question of limitation, the question as to whether a signed copy of the award was sent to the petitioner etc., and decide it on merits in accordance with law. The interlocutory applications, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

N.BALAYOGI, J.

14th June, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N.BALAYOGI

Civil Revision Petition No.3258 of 2018
(per VRS, J.)



14th June, 2018.
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