

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

CIVIL REVISION PETITION NOS.1636 AND 3122 OF 2018

COMMON ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

CRP.No.1636 of 2018 is filed by the respondent in Arbitration O.P.No.520 of 2017 against the proceedings in I.A.No.251 of 2017 dated 21.07.2017 passed by the V Additional District & Sessions Judge at Bhongir. CRP.No.3122 of 2018 is filed by the respondent in Arbitration O.P.No.520 of 2017 in I.A.No.251 of 2017 dated 01.05.2018 passed by the V Additional District & Sessions Judge, Bhongir.

The respondent herein filed Arbitration O.P.No.520 of 2017 under Section 9 of the Arbitration and Conciliation Act, 1996 ("the Act" for brevity) requesting the Court below to restrain the petitioners herein from alienating the Suit A, B and C schedule properties in favour of third parties until the claim petitions, filed before the Arbitral Tribunal, were decided; and to restrain the respondent from altering the nature of the lands in the Schedule Properties A, B and C till the Arbitral Tribunal renders an award on the claim petition of petitioner.

I.A.No.251 of 2017 was filed by the respondent, under Order XXXVIII Rule 1 of the Code of Civil Procedure (CPC) requesting the Court below to issue a notice to the revision petitioners asking them to show cause why they should not furnish security for their appearance, and to deposit a sum equivalent to the respondent-petitioner's claim of Rs.2,41,19,143/- as security until the claim petition was disposed of. By order in I.A.No.251 of 2017, in

Arbitration O.P.No.520 of 2017, the Court below issued a notice to the revision petitioners to appear and furnish surety to the extent of the Suit amount within three days from the date of receipt of the show cause notice. Aggrieved thereby, the respondent in the O.P. filed C.R.P.No.1636 of 2018. While matters stood thus the Court below, by its order in I.A.No.251 of 2017 in Arbitration O.P.No.520 of 2017 dated 01.05.2018, noted that the respondent-revision petitioner had not furnished surety; and, therefore, issued attachment of the schedule property. Aggrieved thereby, CRP.No.3122 of 2018 was filed.

Sri P.Anji Babu, learned counsel for the petitioner, would draw out attention to the letter addressed by the petitioner to the respondent herein on 31.12.2015 to submit that the said letter would not constitute an Arbitration agreement since it is merely a letter and is not an agreement signed by both the parties. The said letter dated 31.12.2015 records the petitioner's statement that he would abide by the agreed terms and conditions; and any or all disputes or questions that may arise now or in future, in respect of the four promissory notes and all other subsequent transactions connected thereto, shall be referred to an Arbitrator, to be nominated by the respondent herein, who shall act as the 'Sole Arbitrator'.

Section 7 of the Act relates to the arbitration agreement, and Section 7(4)(d) stipulates that an arbitration agreement would be in writing if it is contained in an exchange of letters. The letter addressed by the revision petitioner, agreeing to have the disputes referred to arbitration, would, *prima facie*, suffice to bring it within the ambit of Section 7(4)(d) of the Act.

While Sri P.Anji Babu, learned counsel for the petitioner, would contend that the signature of the revision petitioner in the said letter

is forged, these are all matters for the Court below to examine. As the petitioner failed to respond to the notice issued on 21.07.2017, and to furnish security, the Court below was constrained, by its subsequent order dated 01.05.2018, to order attachment.

As Section 9 of the Act itself relates to providing interim measures suffice it, while dismissing both the revision petitions, to observe that the Court below shall examine the application under Section 9 of the Act, filed by the respondent herein, on its merits uninfluenced by any observations made by us in this order. It is always open to the revision petitioner herein to approach the Court below, and to put forth his submissions for lifting of the attachment made pursuant to the order passed by the Court below. Since an application under Section 9 of the Act is required to be heard early, we have no reason to doubt that the Court below shall decide the Arbitration O.P. with utmost expedition.

Both the Civil Revision Petitions are, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(N.BALAYOGI, J)

6th August 2018
RRB