

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE J. UMA DEVI

Civil Revision Petition No.2628 of 2017

27-08-2018

Between:

State of Andhra Pradesh, represented by the
Principal Secretary, Transport, Roads & Buildings,
Hyderabad and others

... Petitioners

Vs.

M/s. KMC Constructions Ltd., & M/s. KMC TDCL
(JV), represented by its G.P.A. Holder,
Authorised Signatory M/s. KMC Constructions Ltd.,
Shilpa Home Layout, Gachibowli, Hyderabad
and another

... Respondents

Counsel for the Petitioner : Mr. T. Ramulu,

Counsel for Respondents : Mr. G. Sunil for R-1
G.P. for R & B (TG)

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE J. UMA DEVI

Civil Revision Petition No.2628 of 2017

ORDER: *(per V. Ramasubramanian, J)*

The Chief Engineer of the Andhra Pradesh Road Development Corporation has come up with the above revision challenging an order passed by the XI Additional Chief Judge, City Civil Court, Hyderabad, terminating the mandate of an Arbitrator under Section 14 (2) of the Arbitration and Conciliation Act, 1996.

2. Heard Mr. T. Ramulu, learned counsel for the revision petitioner and Mr. G. Sunil, learned counsel appearing for respondents 1 and 2.

3. The Andhra Pradesh Road Development Corporation entered into a contract with respondents 1 and 2 herein. The contract contained an arbitration clause. As per the arbitration clause, the Andhra Pradesh Road Development Corporation, which was described as the employer, was entitled to nominate one Arbitrator and the 1st respondent herein, who is described as the contractor, is entitled to appoint one Arbitrator. The Arbitrator appointed on both sides, will have to choose a Presiding Arbitrator.

4. It appears that the contractor nominated one Mr. K. Anjaneyulu, an advocate of this court as the Arbitrator on his side. On the ground that the Andhra Pradesh Road Development Corporation, which is the employer, did not name an Arbitrator, the

contractor went before the Indian Road Congress with a request to nominate an Arbitrator on the side of the employer. The Indian Road Congress appointed one Mr. P. Hariraj, retired Director General of Highways Department, Tamilnadu, as the Arbitrator on the side of the employer.

5. After some time, the contractor moved the Court below with a petition in Arb.O.P.No.82 of 2017 for termination of the mandate of Sri P. Hariraj appointed by the Indian Road Congress on the side of the employer. This petition was allowed by the Court below with liberty to the Andhra Pradesh Road Development Corporation, to nominate their Arbitrator. It is against the said order that the present revision is filed.

6. *De hors* all the legal issues raised, we fail to understand as to how the petitioner can be aggrieved. The petitioner being the employer failed to appoint an Arbitrator from their side as per the Arbitration Agreement. Therefore, the 1st respondent-contractor got an Arbitrator appointed for the employer also. It is his mandate, which is now terminated, and the opportunity that the Andhra Pradesh Road Development Corporation earlier lost or forfeited, has been resurrected and a bonanza given to the petitioner. The petitioner should be thankful to the 1st respondent for giving an opportunity to the petitioner to name their own Arbitrator. The trial Court did not issue a direction to the Indian Road Congress to nominate an Arbitrator. The trial Court has given an opportunity to

the petitioner that was already lost by the petitioner. Therefore, the petitioner should not be aggrieved by this order.

Hence, the Civil Revision Petition is dismissed. The petitioner is free to nominate their own Arbitrator within a period of one month from the date of receipt of a copy of the order.

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

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 27-08-2018

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