

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

HON'BLE SMT JUSTICE T.RAJANI

CIVIL REVISION PETITION No.3358 of 2018

ORDER: (per the Hon'ble Sri Justice C.Praveen Kumar)

1) Assailing the order dated 02.05.2018 in I.A. No.24 of 2018 in Com.O.S.No.128 of 2016 passed by the Principal District Judge, Karimnagar, wherein the request of the petitioner/defendant for consolidation of Com.O.S.No.128 of 2016 with Com.O.S.No.129 of 2016, came to be rejected because of stay granted by this Court in Com.C.A.No.6 of 2018 stalling the further proceedings in Com.O.S.No.129 of 2016, the present C.R.P., came to be filed under Article 227 of the Constitution of India.

2) Though the reason given by the learned District Judge, rejecting the request for clubbing of both the suits appears to be incorrect, but we intend to hear the matter on merits keeping in view the object of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Court Act, 2015 and the purpose for which it was enacted.

3) Before proceeding further, it is to be noted that the plaintiffs and the defendants in both the suits are one and the same. Com.O.S.No.128 of 2016 was originally filed in the court of VI Additional District Judge-cum-Labour Court, Karimnagar at

Godavarikhani, wherein it was numbered as O.S.No.15 of 2013. The grievance of the plaintiff in the said suit was though substantial work was done till 2013, the final bills to the extent of Rs.26,73,01,834/- with interest were not cleared. Subsequently, another suit came to be filed by the very same plaintiff vide O.S.No.20 of 2015 in the Court of VI Additional District Court, Godavarikhani, which on transfer came to be numbered as Com.O.S.No.129 of 2016, wherein the claim was with regard to withholding of the amount of Rs.52,34,86,011/-. Both the suits came to be transferred to the Principal District Court and wherein they came to be numbered as Com.O.S.Nos.128 and 129 of 2016. It is not in dispute that in Com.O.S.No.128 of 2016 the trial has commenced and P.W.1 was examined in chief, whereas even the issues are not framed in Com.O.S.No.129 of 2016.

4) The question now is "Whether it would be appropriate to consolidate both the suits?"

5) As stated earlier, parties in both the suits are one and the same and the work order in both the suits is also one and the same, but both the suits are at different stages. At first blush, we felt that it would be just and proper to consolidate both the cases, but a close perusal of the material on record showed that the same is unwarranted for more than one reason. The record discloses that earlier the defendants viz., M/s. Singareni Collieries Company

Limited, Kothagudem, filed I.A.No.1438 of 2016 in O.S.No.129 of 2016 seeking stay of Com.O.S.No.129 of 2016 pending disposal of O.S.No.15 of 2013 i.e., Com.O.S.No.128 of 2016. In other words, the prayer which they sought in that I.A. is somewhat similar though not identical to the relief which is sought for in the present I.A. By an order dated 18.01.2017 the learned Principal District Judge, Karimnagar rejected the request on the ground that the reliefs claimed in both the suits are different though the parties and facts are same. The said order has become final. From the above, it is clear that the request of the defendants viz., Singareni Collieries, seeking stay of Com.O.S.No.129 of 2016 pending disposal of Com.O.S.No.128 of 2016 was rejected.

6) Having failed in their effort to stall the said proceedings, a fresh application came to be filed vide I.A.No.24 of 2018 in O.S.No.128 of 2016, on 08.01.2018, basing on an observation made by the Principal District Judge in I.A.No.475 of 2017 in O.S.No.129 of 2016 seeking to pass summary judgment, wherein it was observed that "the controversy between the parties in both the suits revolves around a common dispute i.e., clause IV of the work order." But having regard to the order passed earlier stating that though the parties in both the suits are same but the reliefs are different and since no prejudice would be caused to either of the parties, if they are tried separately, we feel that the request to consolidate the suit

may not be necessary. At this stage, an argument is advanced by the learned counsel for the petitioner that it is just and proper to consolidate both the cases so as to avoid conflicting judgments. We feel that the question of delivering conflicting judgments would not arise since both the cases are pending before the same court and they are being heard by the same Officer. Having regard to the above, delivering conflicting judgments would not arise.

7) Therefore, we are of the opinion that the request of the revision petitioners herein for consolidating both the suits cannot be accepted, more so, when the trial has commenced in one of the suits. However, the trial court shall keep in mind the contents of the judgment in Com.O.S.No.128 of 2016 while deciding the suit in Com.O.S.No.129 of 2016.

8) Accordingly, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions pending if any in this C.R.P. shall stand dismissed.

C.PRAVEEN KUMAR, J

T.RAJANI, J

Dt:10.07.2018
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