

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.R.P.No. 5290 of 2017

24.04.2018

Between:

M/s. A.P.Trade Promotion Corporation,
Rep., by its Authorized Officer/General Manager,
Prasanth House, 1st Floor, D.No.48-9-11/2,
Vijayawada – 520 004.

..Petitioner/respondent

and

Foods N Foods Pvt., Ltd.,
Rep., by its Managing Director,
Harish Kumar Amilineni,
Huda Heights, Ashwini Layout,
Jubilee Hills, Hyderabad.

..Respondent/petitioner

Counsel for the petitioners: Mr. Krishna Devan

Counsel for the respondents: Mr. Thomas lloyd

The Court made the following:

JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Civil Revision Petition is filed against order, dated 03.04.2007, in OP.No.954 of 2017 on the file of learned III Additional Chief Judge, City Civil Court, Hyderabad.

2. The respondent filed O.P.No.954 of 2017 under the Arbitration and Conciliation Act, 1996 (for short 'the Arbitration Act') for an interim injunction restraining the petitioner from interfering with its possession of the petition schedule property. An ad-interim order was granted by learned III Additional Chief Judge, City Civil Court, Hyderabad by his order, dated 03.04.2017. Assailing this order, the petitioner had filed this Civil Revision Petition.

3. The plea of Mr. Krishna Devan, learned counsel appearing for the petitioner, is twofold, *viz.*, (i) that under Section 9 of the Arbitration Act, it is the 'Court', which has jurisdiction to entertain an application under Section 9 of the Arbitration Act and pass appropriate order and that as per Section 2(1)(e) of the Arbitration Act, the Principal Civil Court of Original Jurisdiction in a District, *inter alia*, is the Court and that therefore, it is only the Chief Judge of the City Civil Court, Hyderabad, who has jurisdiction to entertain the O.P. and pass order and that (ii) the O.P. is filed seeking protection of the

respondent's possession on apprehension of dispossession for non-payment of Rs.1,65,10,979/- towards rents and that therefore, the dispute falls under the definition of "commercial dispute" under Section 2(1)(c) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (for short 'the Commercial Courts Act').

4. Mr. Thomas lloyd, learned counsel for the respondent, opposed the above submissions and sought to support the order of the lower Court.

5. We have carefully considered the respective submissions of the learned counsel for both the parties and perused the record.

6. Section 2(1)(c) of the Commercial Courts Act defines "commercial dispute". The agreement in question relates to immovable property. The said definition takes within its sweep the agreements relating to the immovable property used exclusively in trade or commerce. All such disputes would fall under the said definition, provided, they satisfy the definition of "specified value" under Section 2(1)(c)(i) of the Commercial Courts Act i.e. the value of not less than one crore rupees.

7. Learned counsel for the respondent has not disputed that on both the counts referred to above, the present case falls within the definition of “commercial dispute”. Therefore, the lower Court has committed an error in entertaining the O.P. instead of sending the same to the notified ‘Commercial Court’ of Hyderabad District. In the light of the above finding, it is not necessary for us to consider the submission based on the definition of the ‘Court’ under Section 2 (1)(e) of the Arbitration Act.

8. For the aforementioned reasons, the order of the lower Court is not sustainable and the same is, accordingly, set aside. The Chief Judge, City Civil Court is directed to transfer the O.P. to the Commercial Court at Hyderabad within one month from the date of receipt of a copy of this order. After transfer of the O.P., the Commercial Court shall issue notice to both the parties, hear the matter and dispose of the same on merits. As an interim measure, *status quo* as on today shall be maintained for a period of two (2) months. Meanwhile, the petitioner shall be free to seek interim relief from the Commercial Court.

9. With the above directions, the Civil Revision Petition is allowed.

10. As a sequel to allowing of the civil revision petition, IA.No.1 of 2017 CRP.MP.No.6864 of 2017 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

D.V.S.S.SOMAYAJULU, J

Date: 24.04.2018
KLP

