

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO
CIVIL REVISION PETITION NO.4640 OF 2018

ORDER: (per SK,J)

The first respondent in C.O.P.No.14 of 2018 on the file of the learned Judge, Commercial Court-cum-XXIV Additional Chief Judge, City Civil Court, Hyderabad, is the petitioner in this revision petition filed under Article 227 of the Constitution. The said C.O.P was filed by the first respondent herein under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the arbitral Award dated 21.01.2017. Therein, the first respondent also filed I.A.No.50 of 2018 seeking stay of enforcement of the said Award. By the order under revision, the Court below granted stay of enforcement of the Award subject to the condition that the petitioner in the C.O.P. deposited 15% of the awarded amount within three months. Aggrieved by the quantum of deposit, the first respondent in the C.O.P. is before this Court.

Heard Sri Omer Farooq, learned counsel representing Sri Avinash Desai, learned counsel for the petitioner, and Sri M.Avinash, learned counsel representing Sri N.Ashwani Kumar, learned counsel for the first respondent.

Perusal of the order under revision reflects that the Court below proceeded on the ground that a common Award was passed by the arbitral Tribunal and on this basis, it opined that imposing the condition to deposit 15% of the awarded amount would suffice.

Sri Omer Farooq, learned counsel, would however point out that the Court below was not correct in its understanding that the Award was a common Award giving rise to a single set aside petition. He would state that there were two separate contracts. One was with the first respondent

in relation to onshore services and the other related to offshore which was with Tecnimont SPA, an Italian company of which the first respondent is an Indian subsidiary. He would further state that two separate decrees were passed in relation to these contracts and therefore, the Court below ought not to have treated the Award in question as a common Award.

Sri M.Avinash, learned counsel, does not dispute the fact that the usual order passed in matters of this nature is that 50% of the awarded amount should be deposited. Learned counsel also concedes that there are no mitigating or special circumstances warranting deviation from this usual order in the case on hand.

As we find that the Court below seems to have decided on the quantum under the misconception that the Award was a common Award and that it was dealing with both contracts, there was no real justification in reducing the amount to be deposited from the usual 50% to a mere 15%.

The civil revision petition is accordingly allowed directing the first respondent herein to deposit, in all, 50% of the awarded amount in terms of the arbitral Award dated 21.10.2017, in so far as it related to onshore services, to the credit of C.O.P.No.14 of 2018 on the file of the learned Judge, Commercial Court-cum-XXIV Additional Chief Judge, City Civil Court, Hyderabad, pending its disposal. This amount shall be deposited within six weeks from today.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

Date:01.11.2018

M.GANGA RAO,J

