

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CMA.No.978 of 2018

Date:03.10.2018

Between.

M/s Surya Shakti India Financial
Private Ltd., Visakhapatnam,
Reptd by its Managing Director-
Peter K.Schneeberger

.....Appellant

And.

Audi Suresh Babu,
S/o Penchalaiah

.....Respondent

Counsel for the appellant: Mr. G.Rama Gopal

The Court made the following:



JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This Civil Miscellaneous Appeal arises out of order, dated 07.6.2018, in I.A.No.278 of 2014 in OS.No.539 of 2013 on the file of the XII Additional District Judge, Visakhapatnam.

We have heard Mr. G.Rama Gopal, learned counsel for the appellant and perused the record.

The respondent filed the afore-mentioned suit for recovery of money. The appellant has filed I.A.No.278 of 2014 for dismissing the suit on the ground that as per the agreement between them, the dispute shall be referred for arbitration. The lower Court has dismissed the said IA on the ground that the appellant has not complied with the requirement of Section-8(2) of the Arbitration and Conciliation Act, 1996 (for short 'the Act'), viz., filing of original Arbitration agreement or a duly certified copy thereof.

The fact that the appellant has not complied with either of the two alternative requirements envisaged under Section-8(2) of the Act is not disputed by the counsel for the appellant. He, however, submitted that the respondent has not disputed the existence of an Arbitration agreement. In our opinion, when the statute contains a mandate regarding filing of the original Arbitration agreement or a duly certified copy thereof, the appellant is not entitled to maintain the application without duly complying with the said mandate.

In this view of the matter, we do not find any merit in this Civil Miscellaneous Appeal and the same is accordingly dismissed,

however, with liberty to the appellant to file a fresh application by complying with the requirement of Section-8(2) of the Act.

As a sequel to dismissal of the Civil Miscellaneous Appeal, I.A.No.1 of 2018 filed for interim relief shall stand dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHYAM PRASAD

03rd October, 2018

DR

