

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms JUSTICE J.UMA DEVI

+ Civil Revision Petition No.4815 of 2018

% Date: 23-8-2018

M/s Lake Plaza Hotels Ltd., A Company registered
under the provisions of Companies Act, 1956,
Having its office at 31/1 & 22, Somajiguda,
Hyderabad, Rep. by its Managing Director
... Petitioner/Petitioner/Defendant

Vs.

\$ M/s Sri Vamsi Krishna Constructions,
A Partnership firm having its office at 301,
Vivekananda Arcade, Kukatpally, Hyderabad,
Rep. by its Managing Partner Mr. G.Venkateswara Rao
... Respondent/Respondent/Plaintiff

! Counsel for Petitioner: Mr. B.Chandrasen Reddy

Counsel for Respondent: ---

< Gist:

> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Civil Revision Petition No.4815 of 2018

Order: (per V.Ramasubramanian, J.)

Aggrieved by the return of an application under Section 8 of the Arbitration and Conciliation Act, 1996, the defendant in a suit for recovery of money has come up with the above revision.

2. Heard Mr. B.Chandrasen Reddy, learned counsel for the petitioner.

3. The respondent filed a suit in O.S.No.539 of 2013 on the file of the X Additional Chief Judge, City Civil Court, Hyderabad, for recovery of a sum of Rs.31 lakhs. The petitioner herein, filed a written statement on 27-11-2014 along with an application under Section 8 of the Act for referring the dispute to arbitration on the ground that the agreement between the parties contains a clause for reference of disputes to arbitration.

4. Unfortunately, the petitioner did not diligently prosecute the said application filed in IA SR No.5403 of 2014. Since the petitioner failed to prosecute the said application diligently, the Court proceeded to frame issues for trial. The suit was posted for trial and the plaintiff has already filed the Affidavit in lieu of chief-examination of P.W.1 and has marked the documents as exhibits.

5. It is at that stage that the petitioner woke up from his slumber and requested the Court to take up the application under Section 8. Immediately the Court returned the application by an endorsement dated 08-8-2018, which reads as follows:

“State how the petition is maintainable, since Written Statement is filed and the suit is in Trial stage. Hence returned.

Time (7) days.”

6. It is against the said endorsement that the present revision is filed.

7. There are two things that stand against the petitioner. The first is that under Section 8 of the Act, an application should be filed “before” the submission of the first statement of defence. The expression used in the provision is “before” and not “along with” or “simultaneously”. This is the first mistake committed by the petitioner.

8. The 2nd mistake committed by the petitioner was in not requesting the Court to pass orders on the application at the earliest stage. For 4 years, the application was lying in cold storage. It is only after issues were framed, and an Affidavit in lieu of chief-examination of P.W.1 was filed and exhibits marked that the petitioner brought up this application to the surface. This tantamount to abandonment of the rights under Section 8. Therefore, we see no reason to interfere with the impugned endorsement. Hence, the civil

revision petition is dismissed. The pending applications, if any, shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

23rd August, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Civil Revision Petition No.4815 of 2018
(per VRS, J.)



23rd August, 2018.
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