

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

AND

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

CIVIL REVISION PETITION No.4442 of 2017

02.04.2018

Between:

Ramakrishna Reddy Chinthakunta and another

..Petitioners

and

M/s.Shriram Transport Finance Company and another

..Respondents

Counsel for the petitioners: Mr.P.Raja Sripathi Rao

Counsel for respondent No.1: Mr.Praveen Kumar Challa

Counsel for respondent No.2: --

The Court made the following:



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

This Civil Revision Petition is filed under Article 227 of the Constitution of India questioning the interlocutory order passed by respondent No.2 on the application filed by the petitioners for dismissing the arbitration case on the preliminary objection of the arbitrator's jurisdiction.

2. In **M/s.S.B.P. & Co. vs. M/s.Patel Engineering¹**, the Supreme Court held as under.

“44. It is seen that some High Courts have proceeded on the basis that any order passed by an arbitral tribunal during arbitration, would be capable of being challenged under [Article 226](#) or 227 of the Constitution of India. We see no warrant for such an approach. [Section 37](#) makes certain orders of the arbitral tribunal appealable. Under [Section 34](#), the aggrieved party has an avenue for ventilating his grievances against the award including any in-between orders that might have been passed by the arbitral tribunal acting under [Section 16](#) of the Act. The party aggrieved by any order of the arbitral tribunal, unless has a right of appeal under [Section 37](#) of the Act, has to wait until the award is passed by the Tribunal. This appears to be the scheme of the Act. The arbitral tribunal is after all, the creature of a contract between the parties, the arbitration agreement, even though if the occasion arises, the Chief Justice may constitute it based on the contract between the parties. But that would not alter the status of the arbitral tribunal. It will still be a forum chosen by the

¹ AIR 2006 SC 450

parties by agreement. We, therefore, disapprove of the stand adopted by some of the High Courts that any order passed by the arbitral tribunal is capable of being corrected by the High Court under [Article 226](#) or 227 of the Constitution of India. Such an intervention by the High Courts is not permissible.

45. The object of minimizing judicial intervention while the matter is in the process of being arbitrated upon, will certainly be defeated if the High Court could be approached under [Article 227](#) of the Constitution of India or under [Article 226](#) of the Constitution of India against every order made by the arbitral tribunal. Therefore, it is necessary to indicate that once the arbitration has commenced in the arbitral tribunal, parties have to wait until the award is pronounced unless, of course, a right of appeal is available to them under [Section 37](#) of the Act even at an earlier stage.”

In **Mohd. Hussain Khan vs. Mohd. Imtiyaz Ahmed**², a Division Bench of this Court, of which one of us (CVNR,J) is a member, following the aforementioned judgment of the Supreme Court, held that a party aggrieved by an order passed by the Arbitrator is not entitled to invoke the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

3. In the light of the above authoritative pronouncement, this Civil Revision Petition is dismissed as not maintainable, leaving the

² AIR 2006 Hyd 183

petitioners free to avail appropriate legal remedy in terms of the law as discussed above.

4. As a sequel to dismissal of the C.R.P., interim order, dated 04.09.2017, in C.R.P.M.P.No.5829 of 2017 is vacated and C.R.P.M.P.No.5829 of 2017 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

D.V.S.S.SOMAYAJULU, J

02nd April, 2018
GHN

