

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

Civil Revision Petition No.5841 of 2018

ORDER:

Aggrieved by the return of plaint primarily on the ground of existence of an arbitration clause, the plaintiff in a suit challenging an order of suspension passed by his employer, has come up with the above revision.

2. Heard Mr. K.V. Bhanu Prasad, learned counsel for the petitioner.

3. The petitioner herein was aggrieved by an order of suspension passed against him on 25-08-2018. The case of the petitioner is that he was appointed as Chief Operating Officer in the 4th respondent society, which is registered under the Andhra Pradesh Societies Registration Act.

4. Mistaking the petitioner to be a member of the society, the trial Court has returned the plaint on the ground that the petitioner should seek arbitration.

5. But, it is seen from the plaint that the positive case of the petitioner is that he was only an employee and not a member of the general body of the 4th respondent society. Clause 20 of the Memorandum and Articles of Association of the society provides for arbitration of any disputes only among the members of the society.

Clause 20 reads as follows:

“20. In case of any dispute in any matter relating to the affairs of the Academy among the members of the Academy, or in the interpretation of these regulations, such disputes shall be referred to one or more arbitrators as agreed upon by the parties to the dispute for adjudication and the award of such arbitration shall be binding on all the parties to the dispute.”

6. But, in as much as the petitioner is not a member of the society but only an employee, Clause 20 of the Bye-laws cannot be invoked against him.

7. Therefore, the Civil Revision Petition is allowed and the petitioner is permitted to re-present the plaint along with the original documents within a period of two weeks. Upon the plaint being re-presented, the Court below shall number the same provided the other formalities are properly complied with. Thereafter, the Court may proceed to dispose of the suit in accordance with law. The Registry is directed to return the original plaint and the documents to the learned counsel for the petitioner to enable him to represent the same. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 05-10-2018

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