

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

HON' BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No. 1178 of 2017

JUDGMENT:

The present C.M.A is filed under Section 37 of the Arbitration and Conciliation Act, 1996 seeking to set aside the award passed in Arbitration O.P.No. 2037 of 2014, dated 03.08.2017 on the file of the IX Additional Chief Judge, City Civil Court, Hyderabad, wherein the application filed by the appellant was rejected, mainly on the ground that the application cannot be entertained without depositing 75% of the amount awarded as contemplated under Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter mentioned as 'the Act').

2. The learned counsel for the appellant mainly submits that the court below ought to have given some time to the appellant to deposit the amount as contemplated under Section 19 of the Act, instead of dismissing the O.P for non compliance of the said section. He further submits that the objection of non-deposit of the amount should have been considered at the time of filing of the appeal, but, no such objection was taken.

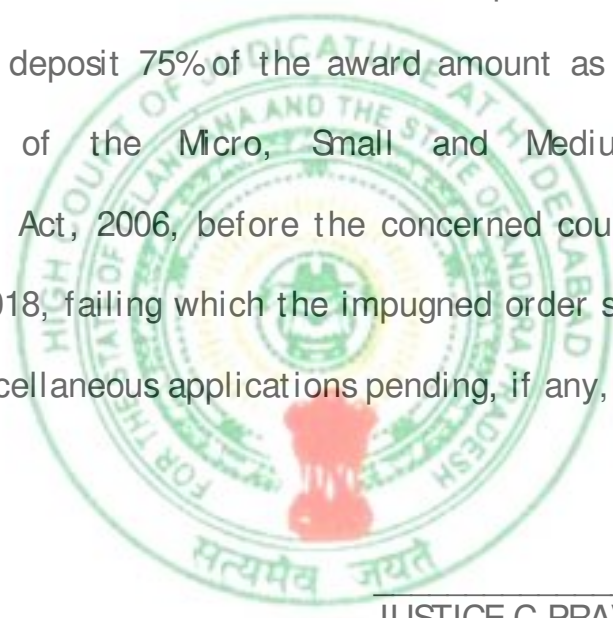
3. The learned counsel for the respondents filed counter, contending that the order under challenge warrants no interference. According to him, the appellant played fraud before

this court by suppressing material facts. It is his plea that challenging the award passed by the 2nd respondent-the Andhra Pradesh Micro and Small Enterprises Facilitation Council, in proceedings No. 22C/ IFC/ 2014/ 2217, dated 17.05.2014, a W.P.No. 25438 of 2014 was filed before this Court. Initially, a Single Judge of this court suspended the award passed by the 2nd respondent, directing the appellant to deposit 75% of the award amount. Assailing the same, Writ Appeal No. 1265 of 2014 came to be filed. In W.A.M.P.No. 3110 of 2014 filed in the said writ appeal, a Division Bench of this Court set aside the said order, on the ground that the learned Single Judge ignored the mandatory statutory provision of Section 19 of the Act; granted stay of operation of the impugned order and directed that the writ petition shall be kept pending till the disposal of the writ appeal. It is also stated that on the very same day of filing the writ appeal, Arbitration O.P.No. 2037 of 2014 was filed challenging the award dated 17.05.2014. It is the plea of the respondents suppressing the fact of filing of the arbitration O.P., the said writ petition came to be filed. The learned counsel for the respondents further submits that even in the arbitration appeal, the appellant did not disclose the fact of filing of the writ petition. Hence, he pleads that a fraud has been played by the appellant.

4. At this stage, we do not intend to go into the issue as to whether any fraud has been played by the appellant as the Writ Appeal is still pending. But fact remains that earlier, in W.P.No. 25438 of 2014, a Single Judge of this Court suspended the award

dated 17.05.2014, which was subsequently stayed in W.A.M.P.No. 3110 of 2014 in W.A.No. 1265 of 2014. However, since the appellant was directed to deposit 75% of the award amount under Section 19 of the Act, and as the appellant is ready to deposit the said amount, without going into the merits of the case, we intend to dispose of this appeal, directing the appellant to deposit 75% of the award amount, as required under Section 19 of the Act before the concerned court.

5. In view of the above, the C.M.A is disposed of, directing the appellant to deposit 75% of the award amount as required under Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006, before the concerned court on or before 30th April, 2018, failing which the impugned order shall remain unaltered. Miscellaneous applications pending, if any, stand closed.



JUSTICE C. PRAVEEN KUMAR

JUSTICE T. AMARNATH GOUD

10.04.2018

Note: Issue C.C. in one week

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