

THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Civil Revision Petition No.7125 of 2018

ORDER: (Per the Hon'ble Sri Justice M.Satyanarayana Murthy)

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed questioning the order dated 15.11.2018 in I.A.No.661 of 2018 in A.O.P.No.529 of 2015 passed by the learned III Additional District Judge, Ranga Reddy District at L.B.Nagar, whereby the request made by the petitioners to direct the respondent-company to furnish the details of transfer of the vehicle bearing No.PY 01 AZ 0099 was rejected.

The petitioners herein filed I.A.No.661 of 2018 with a request to direct the respondent-company to furnish all details of the alleged sale proceeds of car bearing No. PY 01 AZ 0099 and to produce the same car, enabling the petitioners to respond to the communication received from the office of the Assistant Divisional Transport Officer (Admn), Jaunpur, vide its letter No.2066/SA.PRA/2018. It was alleged that the Car BMW 7 series bearing No.PY 01 AZ 0099 was illegally and forcibly taken possession by the respondent-company and further, without notice and information about the proposed sale, the car was allegedly sold. But, as per the B-Register Abstract issued by the Transport Department, Government of Puducherry, vide its reference dated 18.10.2013, from 11.12.2009 to as on date, the registered owner of the said car bearing No.PY 01 AZ 0099 is the first petitioner herein only. Thus, the ownership of the car was not transferred to the alleged purchaser and on the basis of this information, the petitioners filed the present I.A to issue a direction to the respondent-company to furnish the details as stated supra.

No counter was filed by the respondent-company opposing the I.A. The Court below passed the docket order impugned in this revision under Article 227 of the Constitution of India.

The main ground urged in this revision is that the Court below did not appreciate the requirement of the details, in view of the communication received from the office of the Assistant Divisional Transport Officer (Admn), Jaunpur, vide its letter No.2066/SA.PRA/2018, and it is sufficient to prove that the ownership of the vehicle was not transferred and that the first petitioner is the owner of the vehicle. For no fault of the petitioners, the vehicle was sold and they are exposed to criminal litigation also and consequently, they sought for the abovementioned information.

During hearing, learned counsel for the petitioners reiterated the grounds urged in the petition. While admitting passing of the order dated 12.09.2018 in C.R.P.No.5260 of 2018 by a Division Bench of this Court, learned counsel for the petitioners contends that the ground urged in the earlier petition is different from the one urged in this petition. In view of the changed circumstances, more particularly on receipt of letter No.2066/SA.PRA/2018 from the office of the Assistant Divisional Transport Officer (Admn), Jaunpur, the petitioners sought to direct the respondent-company to furnish information. As the Court below failed to consider the said requirement of the information to respond to the letter addressed Assistant Divisional Transport Officer (Admn), Jaunpur, the petitioners prayed to furnish the details.

The respondent-company opposed the petition, on the ground that the earlier petition filed by the petitioners was dismissed and the order of the Court below was confirmed in C.R.P.No.5260 of 2018 dated 12.09.2018 and therefore, no further direction needs to be given, that too, when the scope of the proceedings under Section 34 of the

Arbitration and Conciliation Act, 1996 (for short “the Act”) is limited, and requested to dismiss the petition.

In the I.A filed before the Court below, the petitioners sought for the information as stated above. They had earlier filed a similar application in I.A.No.452 of 2017 before the Court below which ended in dismissal. Similar orders passed by the Court below in I.A.No.452 of 2017 were affirmed by this Court in C.R.P.No.5260 of 2018 by order dated 12.09.2018, except reference of a letter of the Assistant Divisional Transport Officer (Admn), Jaunpur, no other changed circumstances are brought to the notice of this Court. Even otherwise, the relief claimed in the earlier application, and in the application in which the impugned order is passed, is one and the same, except changed circumstance of issuing letter No.2066/SA.PRA/2018 by the office of the Assistant Divisional Transport Officer (Admn), Jaunpur. Moreover, the proceedings under Section 34 of the Act are pending before the Court below and the scope of enquiry under Section 34 of the Act is limited. The Court can interfere with an arbitral award only in the following circumstances, which read as under:

“An arbitral award may be set aside by the Court only if—

(a) the party making the application furnishes proof that—

- (i) a party was under some incapacity, or
- (ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or
- (iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or
- (iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration: Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or
- (v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the

parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that—

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

Explanation. —Without prejudice to the generality of sub-clause (ii) it is hereby declared, for the avoidance of any doubt, that an award is in conflict with the public policy of India if the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81.”

In the present case, the information sought for by the petitioners herein would not fall within any of the grounds enumerated under Section 34 of the Act. Even if this objection with regard to sale of the vehicle and transfer of ownership is in question, it is impermissible in proceedings under Section 34 of the Act, in view of the limited scope of enquiry permitted thereunder.

Therefore, the relief sought for by this petitioners is beyond the scope of the enquiry permitted under Section 34 of the Act and apart from that, in the earlier petition in I.A.No.452 of 2018, the same relief was claimed and the Court below dismissed the said I.A, and a Division Bench of this Court affirmed the said order of dismissal in C.R.P.No.5260 of 2018. Therefore, the relief sought for in this petition cannot be granted for the reasons stated above, more particularly when the scope of enquiry under Section 34 of the Act is limited.

In view of the limited scope of enquiry, while exercising the jurisdiction of this Court under Article 227 of the Constitution of India, this Court cannot entertain a fresh petition under Article 227 of the Constitution of India as a matter of routine, but only in exceptional circumstances, since the control on the Subordinate Courts and the Tribunals by the High Court is for a limited purpose to keep them within their jurisdictional bounds and not to allow them to transgress their bounds. But, in the present facts and circumstances of the case, the

Court below did not transgress its jurisdictional bounds. Therefore, no interference is called for by this Court, at this stage, in this revision, while exercising power under Section 227 of the Constitution of India. Consequently, the civil revision petition is liable to be dismissed.

In the result, the Civil Revision Petition is dismissed, affirming the order dated 15.11.2018 passed by the Court below in I.A.No.661 of 2018 in A.O.P.No.529 of 2015. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, J)

(M. SATYANARAYANA MURTHY, J)

10th December, 2018
JSU



THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



Civil Revision Petition No.7125 of 2018

Date: 10.12.2018

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