

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

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

+C.R.P.No.7219 of 2017

Date: 25-04-2018

Between:

M/s. Srivalli Shipping and Transport Pvt. Ltd.,
D.No.23-22-21, 2nd floor, Sivalayam Street,
Near I Town, Gandhi Statue, Visakhapatnam

... Petitioner

And

M/s. Rastriya Ispat Nigam Ltd., Visakhapatnam
Steel Plant, Visakhapatnam, represented by
Sri N. Satyanarayana (Marketing), Marketing
Department, Visakhapatnam Steel Plant and another

... Respondents

Counsel for the Petitioner : Mr. V.R.N. Prasanthi

Counsel for Respondents : Mr. A. Krishnam Raju,

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

C.R.P.No.7219 of 2017

ORDER: *(per V. Ramasubramanian,J)*

Aggrieved by a blanket stay granted by the District Court, under Section 36 (2) of the Arbitration and Conciliation Act, 1996, the award holder has come up with the above revision.

2. Heard Mr. V.R.N. Prashanth, learned counsel for the revision petitioner and Mr. A. Krishnam Raju, learned counsel for the 1st respondent.

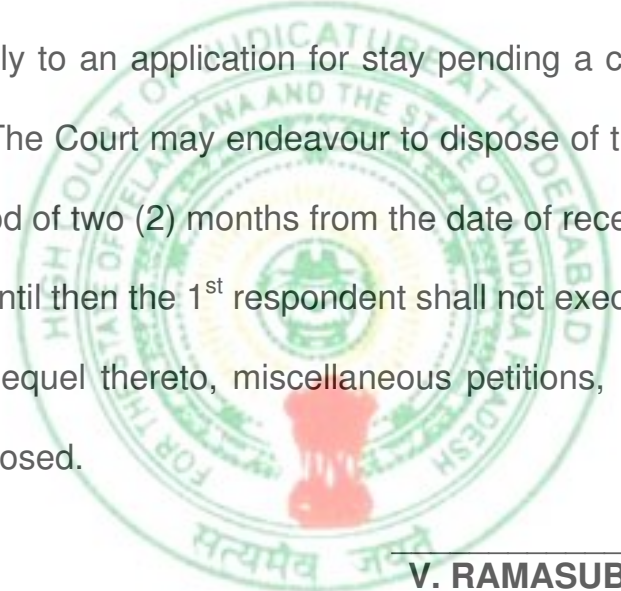
3. There was a claim and a counter claim. The counter claim of the respondent was dismissed and the claim of the petitioner was allowed by the sole Arbitrator. Challenging the award, the 1st respondent filed O.P.No.623 of 2017 under Section 34 of the Act. Pending adjudication, the 1st respondent sought interim stay in I.A.No.648 of 2017. The Court granted a blanket stay forcing the petitioner/award holder to come up with the above revision.

4. It is seen from the impugned order that the discussion as to why a stay should be granted, is found in paragraphs 9 and 10. But in paragraphs 9 and 10, the Court has discussed only the capacity of the 1st respondent to meet the liability in the event of the petitioner succeeding in the Original Petition filed by the 1st respondent under Section 34. Financial capacity of a judgment debtor to meet the liability in the event of a success of the award holder, is not the only

parameter on which the application for stay can be granted. It is true that the grant of stay lies in the realm of discretion. But the discretion has to be exercised on more than one parameter. The Court has confined its discretion only to one parameter. Therefore, the order is liable to be set aside and remitted back.

5. In view of the above, the Civil Revision Petition is allowed, the impugned order is set aside and I.A.No.648 of 2017 is directed to be reconsidered afresh, on the basis of the parameters that would normally apply to an application for stay pending a challenge under Section 34. The Court may endeavour to dispose of the stay petition within a period of two (2) months from the date of receipt of a copy of this order. Until then the 1st respondent shall not execute the award.

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

A large, faint, circular watermark seal of the High Court of Karnataka and the State of Karnataka is centered in the background. It features the text 'HIGH COURT OF KARNATAKA AND THE STATE OF KARNATAKA' around the top and 'FOR THE PEOPLE OF KARNATAKA' around the bottom. In the center is a red emblem of the state of Karnataka. Below the emblem, the motto 'सत्यमेव जयते' is written in Devanagari script.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 25-04-2018

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