

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice T.Amarnath Goud

CMA.No.1347 of 2017

Date: 11.10.2018

Between:

M/s.Anchorage Shipping,
Off: D.No.51/2092 (1) Kolatheir Road,
Near Pettah Junction, Poonithura P.O.,
Ernakulam Kochi – 682038
Rep. by it Authorised Signatory and 3 others

...

Appellants

and

M/s.Gati Limited
Regd. Off: Plot No.20,
Sy.No.12, Kothaguda, Kondapur,
Hyderabad – 500084, rep. by its Authorised Signatory
Dinesh Goud and another

...

Respondent

Counsel for the Appellants : Mr.M.Sudheer Kumar

Counsel for the respondents : Mr.A.Venkatesh

The Court made the following:

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

This Civil Miscellaneous Appeal (CMA) is filed against Order, dated 28-11-2017, in Arbitration OP.No.1789 of 2017 on the file of the XI Additional Chief Judge, City Civil Court, Hyderabad.

For convenience, the parties shall be referred to as they are arrayed in the aforesaid OP.

By the aforementioned order, the Court below has directed respondent Nos.1 to 3 to furnish security for the admitted liability of Rs.40 lakhs within one week, failing which, to attach the Petition-C Schedule Property.

At the hearing, Mr.M.Sudheer Kumar, learned Counsel for respondent Nos.1 to 4, submitted that the Petition-C Schedule Property, which was directed to be attached in the event of failure of respondent Nos.1 to 3 to furnish security, is owned by respondent No.4.

Mr.A.Venkatesh, learned Counsel for the petitioner, fairly did not dispute the same. However, he submitted that respondent Nos.2 and 3 being the Directors of respondent No.4- Company, the Court below has directed attachment of Petition-C Schedule Property standing in the name of respondent No.4 in the event of

respondent Nos.2 and 3 failing to furnish security for the admitted liability of Rs.40 lakhs.

In our opinion, respondent No.4 being a separate legal entity, which is, admittedly, not a party to the contract between respondent Nos.1 to 3 on one side and the petitioner on the other side, the property held by it is not liable for attachment. In this view of the matter, the CMA is partly allowed setting aside the Order under Appeal only to the extent of directing attachment of Petition-C Schedule Property in the event of respondent Nos.2 and 3 not furnishing security for the admitted liability of Rs.40 lakhs. This order, however, will not prevent the appellant from seeking enforcement of the order under Appeal directing respondent Nos.2 and 3 to furnish security by any other means.

As a sequel, CMAMP.No.2425 of 2017, filed for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(T.Amarnath Goud, J)

Date: 11th October, 2018
lur

