

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

CIVIL REVISION PETITION No.7368 of 2017

ORDER: (Per Justice Sanjay Kumar)

This civil revision petition under Article 227 of the Constitution arises out of the order dated 27.06.2017 passed in an unregistered Arbitration O.P. filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act of 1996'), on the file of the learned Principal District Judge, Nalgonda, holding that the petition could not be entertained as the claimants, the petitioners in the Arbitration O.P., had failed to pay court fee as required.

As the Court below refused to entertain the subject petition under Section 34 of the Act of 1996 at the threshold, we see no grounds to put the respondents on notice or afford them an opportunity of hearing at this stage.

Article 11(m) in Schedule-II appended to the Andhra Pradesh Court Fees and Suits Valuation Act, 1956 (for short, 'the Act of 1956'), deals with the court fee payable upon applications to set aside an award under Section 34 of the Act of 1996. The court fee payable thereunder ranges from Rs.200/- to Rs.2,000/- depending upon the value of the subject matter of the award.

As rightly pointed out by the learned Principal District Judge, Nalgonda, the aforestated court fee was stipulated in relation to setting aside the arbitral award alone and not for enhancement of the awarded amount. As to whether the Court exercising jurisdiction under Section 34 of the Act of 1996 can effect such enhancement is an aspect which need not be gone into at this stage, but in the event it does so, it cannot be

gain-said that the party benefiting thereby would be required to pay court fee. The learned Principal District Judge, Nalgonda, was however incorrect in non-suiting the claimants in the Arbitration O.P. at the preliminary stage on the ground that they failed to pay such court fee. Such payment can be made even thereafter and be made a condition precedent for drawing up a decree in terms of the enhancement, if any.

In that view of the matter, the civil revision petition is allowed setting aside the order under revision and directing the Principal District Judge, Nalgonda, to entertain the subject Arbitration O.P. under Section 34 of the Act of 1996 upon payment of court fee in terms of Article 11(m) in Schedule-II to the Act of 1956. However, such payment shall not be conclusive and in the event any enhancement is effected of the awarded amount, the decree shall not be drawn up until and unless the claimants pay the deficit court fee.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 05.01.2018
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