

High Court for the State of Telangana

The Hon'ble The Acting Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Sri Justice A.Rajasheker Reddy

W.A. No. 328 of 2019

Date: 16-04-2019

Between:

**M/s. Krishna Udyog
Rep. by its Partner
Dayanand Sharma**

...Appellant

and

**South Central Railways
Rep. by its General Manager
Rail Nilayam, Secunderabad and another**

...Respondents

Counsel for the appellant: Mr. S. Prasad Babu

Counsel for the respondents: Mr. C.V. Rajeev Reddy

The Court made the following:

Judgment: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellant, M/s Krishna Udyog, is aggrieved by the order dated 22-03-2019, passed by a learned Single Judge in Writ Petition No.5298 of 2019, whereby the learned Single Judge had dismissed the Writ Petition filed by the appellant, petitioner.

Briefly, the facts of the case are that the South Central Railways, the respondents, had entered into a contract with the appellant on 31-10-2016, for supply of 1969.120 KMs of signaling cables. Although the appellant, M/s Krishna Udyog, had supplied a quantity of 1054.620 kms of signaling cables, for certain reasons it could not complete the contract. Since a dispute arose between the parties, and since the contract contained an arbitral clause, on 21-01-2019, a sole arbitrator was appointed. The arbitration proceedings are still pending before the learned arbitrator. Meanwhile, on 19-02-2019, the Principal Chief Material Manager, the respondent No.2, issued a recovery order demanding that an amount of Rs.3,56,89,006/- has to be paid by the appellant to the respondents. Since the appellant was aggrieved by the said recovery order, it filed a writ petition before the learned

Single Judge. However, by the impugned order, dated 22-03-2019, the said writ petition was dismissed by the learned Single Judge. Hence, this appeal before this Court.

This Court has raised a pointed query to the learned counsel for the appellant as to why it has not approached the arbitrator under Section 17 of the Arbitration and Conciliation Act, 1996 (for short 'the Act'), for seeking an interim relief *qua* the recovery order, instead of rushing to this Court under the writ jurisdiction ? To this query, the learned counsel pleads that liberty should be granted to the appellant to approach the arbitrator under Section 17 of the Act.

Therefore, the appellant is granted the liberty to file an application under Section 17 of the Act before the Arbitrator. The appellant is directed to file its application under Section 17 of the Act on or before 15-05-2019. The respondents are directed not to take any coercive steps against the appellant till 15-05-2019.

With the above directions, this appeal stands disposed of.

As a sequel, Miscellaneous Petitions, pending if any,
stand disposed of as infructuous.

(Raghvendra Singh Chauhan, ACJ)

(A.Rajasheker Reddy, J)

Dt: 16th April, 2019
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