

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY
CIVIL REVISION PETITION No.1051 of 2019

Date: 27.09.2019

BETWEEN

M/s. Adam Builders.

... PETITIONER

AND

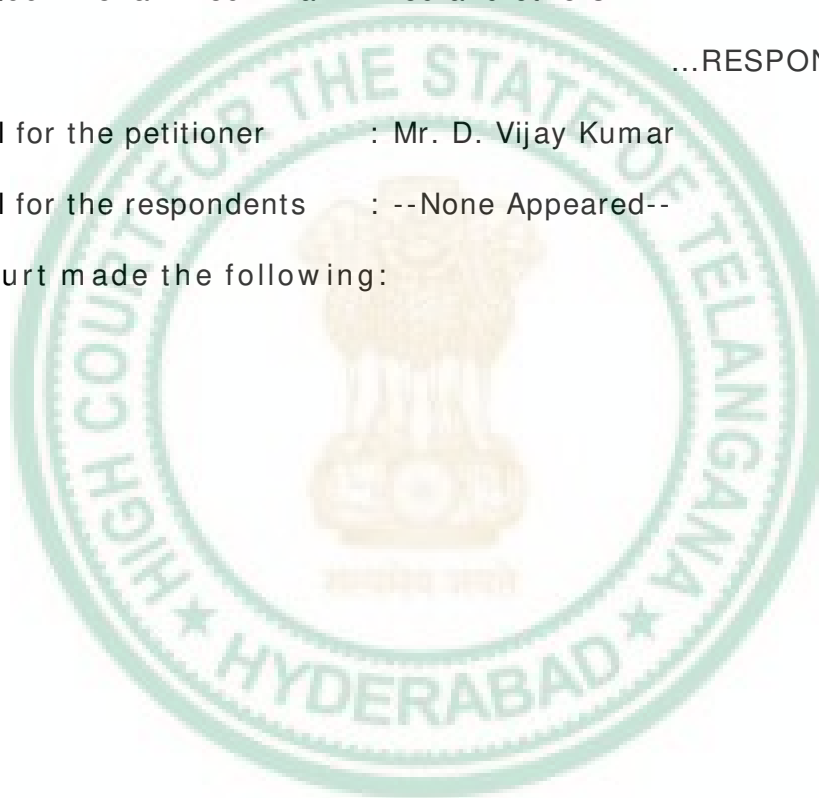
Mr. Shabbir Mohammed Afzal Ahmed and others.

...RESPONDENTS

Counsel for the petitioner : Mr. D. Vijay Kumar

Counsel for the respondents : --None Appeared--

The Court made the following:



ORDER: { Per the Hon'ble the Chief Justice Sri Justice Raghvendra Singh Chauhan}

The petitioner-respondent has challenged the legality of the order dated 07.03.2019, passed by X Additional Chief Judge, City Civil Court, Hyderabad, whereby the learned Judge while staying the operation of the award dated 01.08.2018, passed by the learned Arbitral Tribunal has imposed a condition upon the petitioner to deposit 50% of the awarded amount under relief No.2 to 7 in the award, and also to deposit 50% of the cost of the arbitration proceedings within thirty days.

2. The learned counsel for the petitioner submits that the petitioner is liable to pay the damages and the arrears of damages only in case the petitioner fails to complete the construction as directed by the learned Tribunal. Secondly, that the development agreement did not include the fourth floor. Therefore, the learned Judge is unjustified in directing that 50% of the arbitral award amount and 50% of the cost should be deposited by the petitioner.

3. Heard the learned counsel for the petitioner and perused the impugned order, as well as the award passed by the learned Arbitral Tribunal.

4. A bare perusal of the arbitral award clearly reveals that according to the award the petitioner was directed to pay Rs.5,20,000/- to the claimants-respondents towards damages for the delay in handing over the physical possession of Flat Nos.101, 102, 103 and 303, along with 18% per annum from the date of claim settlement till the date of the award, and future interest at 8% per annum from the date of the award till date of payment. Moreover, the petitioner was further directed to pay a sum of Rs.13,00,000/- to the claimants-respondents towards arrears of damages for

non-handing over the physical possession of the fourth floor of the property. He was further directed to pay a sum of Rs.50,000/- per month till the date of delivery failing which the amount carries interest at the rate of 8% per annum from the date of the award till the date of realization. The award nowhere makes these directions subject to the fact that first the construction has to be completed, and only thereupon these amounts need to be paid by the petitioner to the claimants-respondents. Therefore, the first contention raised by the learned counsel is belied by the award itself.

5. The further issue whether the fourth floor had to be constructed or not, it is an issue which needs to be decided by the learned Judge. Therefore, it may not be proper for this Court to express any opinion with regard to the said issue. For any observation made by this Court would adversely affect the interest of the petitioner himself.

6. Since it is a money decree, which is passed, the learned Judge was justified in imposing the condition that 50% of the awarded amount and 50% of the cost need to be deposited before the operation of the award can be stayed by the Court.

For the reasons stated above, this Court does not find any merit in the present Civil Revision Petition; it is hereby dismissed. As a sequel, the miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J