

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1761 of 2019

Date: 29.07.2019

Between:

B. Balraj Goud.

... Petitioner/Judgment Debtor

And

M/s. Shriram City Union Finance Ltd.,

Rep. by its GPA Holder Sri K. Vinay Kumar

Hyderabad.

... Respondent/Decree Holder

Counsel for the Petitioner

: Sri S. Ramachandra Prasad

Counsel for the Respondent

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The Court made the following:

ORDER: *(Per Hon'ble Dr. Justice Shameem Akther)*

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/Judgment Debtor, challenging the order, dated 26.06.2019, passed in E.P.No.135 of 2018 by the learned III Additional Chief Judge, City Civil Court, Hyderabad.

2) Heard arguments of Sri V.Manoj, learned counsel representing Sri S. Ramachandra Prasad, learned counsel for the petitioner and perused the record.

3) Learned counsel for the revision petitioner/Judgment Debtor, would contend that the impugned order passed by the Court below is contrary to law and facts of the case. Before passing the impugned order of attachment of E.P schedule property of the petitioner/J.Dr, the Court below ought to have given an opportunity to challenge the *ex parte* award passed by the sole Arbitrator. Further, the Court below also failed to provide an opportunity to the petitioner/J.Dr to discharge the amount due in instalments and ultimately, prayed to allow the revision petition and set aside the impugned order.

4) In view of the above submissions, the point that arises for determination is:

“Whether the impugned order dated 26.06.2019 passed in E.P.No.135 of 2018 by the learned III - Additional Chief Judge, City Civil Court, Hyderabad, is liable to be set aside?”

5) **POINT**: Admittedly, the revision petitioner is the Judgment Debtor in E.P.No.135 of 2018 on the file of the III Additional Chief Judge, City Civil Court, Hyderabad. The contention of the learned counsel for the petitioner/J.Dr that the Court below did not provide an opportunity to the petitioner/J.Dr to pay the decretal amount due in instalments is unsustainable, since the payment of the decretal amount due in instalments should be on the mutual consent of the parties to the litigation. It is open to the revision petitioner to challenge the Award dated 21.01.2017 and get it set aside before the appropriate Court in accordance with law. Since the Award dated 21.01.2017 is neither set aside nor stayed by a competent Court, there cannot be stay of E.P proceedings. Furthermore, since the E.P is filed within two years from the date of award passed by the sole Arbitrator, the Court below is justified in ordering attachment of E.P schedule property. There is no illegality or infirmity in the impugned order, warranting inference by this Court. The civil revision petition is devoid of merits and is liable to be dismissed.

6) Accordingly, the Civil Revision Petition is dismissed at the stage of admission. Pending Miscellaneous Petitions, if any, shall stand closed. No order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

Dr. SHAMEEM AKTHER, J

Date: 29.07.2019

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