HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
HONOURABLE SRI JUSTICE K.LAKSHMAN

CIVIL REVISION PETITION NO.2883 OF 2019

O R D E R

(*Per Honourable Sri Justice M.S.Ramachandra Rao*)

This Revision is filed by the petitioner assailing the order dt.16.10.2019 in I.A.No.470 of 2019 in C.O.P.No.35 of 2019 of the Commercial Court-cum-XXIV Additional Chief Judge, City Civil Court at Hyderabad.

2. The said I.A. was filed under Section 36(2) of the Arbitration and Conciliation Act, 1996 to stay the enforcement of the Award dt.29.11.2018 passed by the 2nd respondent.

3. Under Section 34 of the said Act, the said Award was challenged in C.O.P.No.35 of 2019 before the Court below.

4. Considering the contentions of both sides, the Court below granted stay of enforcement of the Award passed by the 2nd respondent on condition of deposit of 40% of the award debt without interest, quantifying it as 40% of Rs.28,95,09,016/-, on or before 29.11.2019.

5. The Court below took note of the fact that the petitioner was directed by the Arbitrator to pay Rs.27,57,39,871/- with interest @ 12% per annum and Rs.1,37,69,145/- with interest @ 12% per annum to the 1st respondent and also the fact that the petitioner was entitled for damages of Rs.8.00 Crore from the 1st respondent towards liquidated damages for delay in execution of the contract work. The Court below

then went on to hold that the entire liability of the petitioner would be around Rs.20.00 Crore, but directed as above.

6. It is the contention of the learned counsel for the petitioner that having arrived at the net liability of Rs.20.00 Crore, the Court below could not have directed deposit of 40% of Rs.28,95,09,016/- and this is an error in the order passed by the Court below.

7. Learned counsel for the 1st respondent, on the other hand, pointed out that the usual order in interim applications seeking stay of money claims by this Court is 50% of the decretal amount, i.e., 50% of the principal amount awarded along with interest, and when the Court below was gracious enough to direct only deposit of 40% of Rs.28,95,09,016/-, the petitioner cannot make out any grievance.

8. We have noted the submissions of both sides.

9. No doubt, the Court below had noted in its order that the entire liability of the petitioner would be Rs.20.00 Crore, but it then chose to grant stay of enforcement of the Award only on condition of deposit of 40% of the awarded amount without interest. Since the Court below had passed the said order in exercise of its discretionary jurisdiction, and since in our opinion, the said order is favourable to the petitioner in the sense that the petitioner was not made to deposit 50% of the amount awarded including interest, we do not deem it necessary to interfere with the said interim order passed by the Court below.

10. Accordingly, the Revision fails and is dismissed. No costs. However, the time for making payment as directed by the Court below is extended up to 31.12.2019.

11. Pending miscellaneous petitions, if any, shall also stand dismissed.

M.S.RAMACHANDRA RAO, J

K. LAKSHMAN, J

6th DECEMBER, 2019

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HIGH COURT FOR THE STATE OF TELANGANA HYDERABAD