

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.6406 of 2017

ORDER:

This Revision is filed challenging the order dt.07-07-2017 in I.A.No.660 of 2017 in O.S.No.1319 of 2016 of the IX Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar allowing an application filed under Section 8 of the Arbitration and Conciliation Act, 1996 filed by respondents seeking to refer the parties in O.S.No.1319 of 2016 to arbitration in terms of Clause No.22 of the Memorandum off Understanding dt.10-07-2007.

2. The learned counsel for petitioner sought to contend that the relief sought in the suit is a relief of declaration that a particular clause in the sale deed is not binding on the petitioner/ plaintiff, and no rights flow to defendant Nos.2 and 3/respondent Nos.2 and 3 over the Club House area, and for the relief of perpetual injunction; and that the relief of declaration sought is regarding a right in *rem* and such issues are not arbitrable according to the decision of the Supreme Court in **Booz Allen and Hamilton Inc Vs. SBI Home Finance Limited and others¹**.

3. I am not impressed with the said argument because the relief of declaration has been sought in the said suit under Section 34 of Specific Relief Acct, 1963 and Section 35 of the said Act states that any declaration made under Section 34 of the said Act would bind

¹ (2011) 5 SCC 532

only the parties to the suit or persons claiming through them; and so any decision of the trial Court even if it decrees the suit cannot be said to be the judgment in *rem*.

4. This view has also been taken by a learned Single Judge of this Court in **Atluri KuchelaRao Vs. The District Collector and others**².

5. Therefore I do not find any merit in the Revision and it is accordingly dismissed. No costs.

6. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 13-09-2019
Vsv

² 2012(3) ALT 621