

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

and

THE HONOURABLE SRI JUSTICE T. AMARNATH GOUD

Civil Revision Petition No.55 of 2020

ORDER : (per Hon'ble M.S. Ramachandra Rao)

This Civil Revision Petition is filed by petitioner assailing the Docket Order passed by the XXV Additional Chief Judge, City Civil Court, Hyderabad in Arbitration O.P.No.139 of 2019 filed by petitioner directing notice to the respondents on 31.12.2019, and fixing the next date of hearing as 20.01.2020.

2. On 10.01.2020, this Court passed the following order :

“Issue Notice to the respondents, returnable within two weeks.

Meanwhile, the respondent nos.2 and 3 are restrained from invoking, claiming and enchasing or recovering the risk and cost amount from the dues arising out of the contract for the agreement executed vide BHEL/HYD/PSED/PUR/NIT-29272/VADI/CA/001 dt.09.12.2016, and Letter of Award No.NIT_29272/NTPC_BOS/Hyderabad /PSED/PUR/VADIM/001, dt.31.10.2016, till the next date.

It is hereby clarified that merely because this interim order is being passed in favour of the petitioner it shall not influence the decision of the learned trial court, while deciding the application filed by the petitioner under Section 9 of the Arbitration and Conciliation Act, 1996. The Trial Court is directed to proceed further.

List this case on 27.01.2020.”

3. Having considered the contentions of petitioner and the counsel for respondents, it is apparent that even according to petitioner its claim against respondent in the proposed arbitration is to the tune of Rs.86 lakhs.

4. In the above order granted by this Court, it does not give any reasons as regards *prima facie* balance of convenience or irreparable injury. It is also brought to our notice that respondents have not yet entered appearance in the Court below by filing their pleading in the O.P.

5. We do not deem it appropriate to decide the matter in this Court when the O.P. is pending consideration before the Court below.

6. Accordingly, we dispose of this Civil Revision Petition directing the respondents herein to file a counter-affidavit in the said O.P. within two (02) weeks from to-day and direct the Court below to decide the O.P. as early as possible preferably within four (04) weeks from the date of filing of the counter in the O.P. by the respondents.

7. The interim order granted by this Court on 10.01.2020 is vacated.

8. It is made clear that this Court has not expressed on the merits of the claim of the petitioner or the respondents.

9. Accordingly, the Civil Revision Petition is disposed of with the above directions. No order as to costs.

10. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

JUSTICE T. AMARNATH GOUD

Date: 03.02.2020

Ndr/*

