

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

AND

THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

CIVIL REVISION PETITION No.363 of 2020

ORDER: (Per Hon'ble Sri Justice M.S. Ramachandra Rao)

Heard the learned counsel for the petitioner.

This Revision is filed by the petitioner under Article 227 of the Constitution of India challenging the order dated 03.01.2020 in IA.No.884 of 2019 in COSSR.No.2837 of 2019 of the Judge, Commercial Court cum XXIV Additional Chief Judge, City Civil Court, Hyderabad.

2. The petitioner had presented the plaint in COSSR.No.2837 of 2019 before the Judge, Commercial Court cum XXIV Additional Chief Judge, City Civil Court, Hyderabad. The said Court refused to register the suit and returned the plaint in view of the order passed by the National Company Law Appellate Tribunal, New Delhi in C.P. No. (A.T).346 of 2008 dated 15.10.2008.

3. Thereafter, IA.No.884 of 2019 was filed by the petitioner seeking refund of the Court fee on the ground that the plaint having been returned by the Court for presentation before the NCLAT, the petitioner would be entitled to the refund of the Court fee. Reliance was placed on Section 66 of the Telangana Court fees and Suits Valuation Act, 1956 (for short 'the Act').

4. The Court below by the impugned order rejected it on the ground that Section 66 of the Act would not be of any help to the petitioner and the petitioner would not be entitled to the refund of the Court fee.

5. Counsel for the petitioner placed reliance on an order passed by this Court on 04.12.2019 in CRP.No.2490 of 2019 wherein an identical issue was considered, and after considering the applicable case law, this Court held that the plaintiff in the said suit would be entitled to refund of the Court fee even in a situation when filing of the suit itself was adoption by it of wrong procedure and there was an effective remedy available to the petitioner before the NCLT. Since there was, in any event, no contest from any of the respondents, this Court held that even if there is no provision for refund of the Court fee, there was inherent power vested in the Court below to grant refund.

6. Therefore, we are of the opinion that the view of the Court below that the petitioner is not entitled to refund of Court fee is not proper, and even if Section 66 of the Act does not apply, by virtue of inherent power vested in the Court under Section 151 of the Civil Procedure Code refund of the Court fee can be granted.

7. Accordingly, the order dated 03.01.2020 in IA.No.884 of 2019 in COSSR.No.2837 of 2019 is set aside and the said IA is allowed and the State of Telangana is directed to refund the Court amount of Rs.5,80,626/- to the petitioner within four (4) weeks.

Accordingly, the Civil Revision Petition is allowed.

As a sequel, the miscellaneous petitions, if any pending, shall stand closed. There shall be no order as to costs.

M.S. RAMACHANDRA RAO, J

T. AMARNATH GOUD, J

February 17, 2020
Note: Issue CC in one week
(B/o) DSK