

**HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
HONOURABLE SRI JUSTICE T.AMARNATH GOUD**

CIVIL MISCELLANEOUS APPEAL NOS.508 AND 985 OF 2019

COMMON JUDGMENT

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

These two Appeals arise under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 (for brevity, 'the Act').

2. The appellant in both these Appeals and the 1st respondent in both the Appeals had entered into a Development Agreement on 25.09.2006 for development of certain land in Nanakramguda Village, Serilingampally Mandal, Ranga Reddy District for multi-development purpose. Disputes arose between them on account of the completion of the project being delayed and the matter came to be referred to a Panel of three Arbitrators (respondents 2 to 4).

3. The Arbitrators pronounced Award on 02.05.2015 partly granting relief to the 1st respondent and partly denying relief to the 1st respondent.

3. To the extent the Award went against the 1st respondent, the 1st respondent filed COP No.87 of 2016 before the Judge, Commercial Court-cum-XXIV Additional Chief Judge, City Civil Court, Hyderabad.

4. To the extent the Award went against the appellant, the appellant filed COP No.132 of 2016 before the same Court.

5. Both the matters were clubbed together and a common order was passed on 01.10.2018 by the Judge, Commercial Court-cum-XXIV Additional Chief Judge, City Civil Court, Hyderabad dismissing COP No.132 of 2016 and allowing COP No.87 of 2016.

6. Against the order of the said Court in COP No.132 of 2016, the appellant herein has filed CMA No.985 of 2019 and against the order in COP No.87 of 2016, the appellant has filed CMA No.508 of 2019 under Section 37(1)(c) of the Act.

7. Counsel for the appellant contended that though several grounds were urged in COP No.132 of 2016 by the appellant [grounds (a) to (w)], in the impugned order, not a single ground has been discussed by the Court below and COP No.132 of 2016 was dismissed without even assigning any reasons therefor. He also contended that merits of the case of the 1st respondent in COP No.87 of 2016 were considered in one single paragraph No.23 and the said COP was allowed.

8. Sri Raja Sripathi Rao, counsel appearing for the 1st respondent sought to support the common order passed by the Court below on merits.

9. We are not inclined to go into the merits of the matter since we agree with the contention of the counsel for the appellant that there is no application of mind by the Court below to the plea of the appellant in COP No.132 of 2016 or proper consideration of the claim of both parties

in COP No.87 of 2016. When serious rights of the parties are involved, we expect the Commercial Court to apply its mind to the respective contentions and deal with the same in accordance with law and pass a reasoned order. We do not appreciate the common order passed cryptically without considering the contentions of the parties.

10. Therefore, both the Appeals are allowed; common order dt.01.10.2018 in COPNo.87 of 2016 and COP No.132 of 2016 is set aside; COP No.87 of 2019 and COP No.132 of 2016 are both remanded back to the Judge, Commercial Court-cum-XXIV Additional Chief Judge, City Civil Court, Hyderabad; and the said Court is directed to hear both sides and pass a fresh reasoned order within eight (8) weeks from the date of receipt of a copy of this order. No costs.

11. Pending miscellaneous petitions, if any, in these CMAs shall stand closed.

M.S.RAMACHANDRA RAO, J

T.AMARNATH GOUD, J

5th FEBRUARY, 2020

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