

**THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

**I.A.No. 1 of 2025
IN
Civil Revision Petition No. 1737 OF 2024**

ORDER: *(Per the Hon'ble Sri Justice J.Sreenivas Rao)*

The petitioner, who is respondent No.1 in Civil Revision Petition No. 1737 of 2024, filed this application invoking the provisions under Section 151 of the Civil Procedure Code, 1908 (for short 'CPC') seeking to recall the order dated 17.12.2024 passed by the Division Bench of this Court in C.R.P.No.1737 of 2024.

2. Heard Mr. Raghavendra Mohan Bajaj, learned counsel, representing Sri Anup Koushik Karavadi, learned counsel appearing for the petitioner/respondent No.1 and Mr.A.Krishnam Raju, learned counsel appearing for respondent No.1/petitioner.

3. Brief facts of the case:

3.1 The petitioner herein filed C.O.P.No.80 of 2022 before the Principal Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes, City Civil Court at

Hyderabad, (hereinafter referred to as, 'the Commercial Co3urt') under Section 34(2)(B)(ii) and Section 34(2A) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') aggrieved by the Award dated 18.06.2022 passed by the Arbitral Tribunal. Along with the said C.O.P., the petitioner filed application in I.A.No.584 of 2022 for grant of stay of execution of the Award. The Commercial Court allowed the said application on 09.02.2023 by staying the enforcement of the Award dated 15.06.2022 subject to the condition that the petitioner shall deposit a sum of Rs.3 Crores within a period of three (3) months and also to furnish unconditional security of the property admeasuring 17,451 square yards in Sy.No.367 located at Paidipalli Village, Hanumakonda Mandal, Warangal District.

3.2 Aggrieved by the above said order, respondent No.1 filed Civil Revision Petition No.1737 of 2024 before this Court on the ground that the Arbitral Tribunal passed award on 18.06.2022 for an amount of Rs.14,27,72,377/-, interest and costs of Rs.25,00,000/-, however, the Commercial Court directed the petitioner to deposit meager amount of Rs.3 Crores. The Division Bench of this Court disposed of the

above C.R.P.No.1737 of 2024 and directed the petitioner to deposit a sum of Rs.2,31,49,456/- in addition to the amount already directed to be deposited by the Commercial Court, by its order dated 17.12.2024. Aggrieved by the same, the petitioner has filed S.L.P.No.6287 of 2025 before the Hon'ble Apex Court and sought permission to withdraw the S.L.P. with a liberty to approach the High Court for modification. Accordingly, Hon'ble Apex Court dismissed the S.L.P. as withdrawn by granting permission. Hence, the petitioner has filed the present application seeking to recall the order.

4. Submissions of the learned counsel for the petitioner:

4.1 Learned counsel submitted that this Court, without properly considering the material available on record, directed the petitioner to deposit an amount of Rs.2,31,49,456/- in addition to the amount already directed to be deposited by the Commercial Court, especially, the above said amount is not included in the Award and the same is outside the purview of the dispute between the parties. In such circumstances, this Court ought not to have directed the petitioner to deposit the aforesaid amount.

4.2 He further submitted that pursuant to the order dated 09.02.2023 passed in I.A.No.584 of 2022 by the Commercial Court, the petitioner had deposited an amount of Rs.3 Crores and also furnished the immovable property as security for the remaining amount. The value of the secured property is more than Rs.17 Crores, whereas the amount awarded by the Arbitral Tribunal is Rs.14,27,72,377/-. In such circumstances, this Court ought not to have directed the petitioner to deposit further amount of Rs.2,31,49,456/-.

4.3 He also submitted that the petitioner's company had been severely affected by COVID-19 and also sustained huge financial loss and the petitioner company stretched by the outstanding loans of Rs.21 Crores. Therefore, the petitioner is unable to deposit the amount as directed by this Court. Especially the petitioner company had already given security in respect of immovable properties before the Commercial Court and the present value of the secured property is more than Rs.17 Crores. This Court without taking into consideration the above said facts passed the impugned order dated 17.12.2024 and the same is liable to be recalled.

5. Submissions of the learned counsel for respondent**No.1:**

5.1 *Per contra*, learned counsel submitted that this Court after hearing both the parties and also verifying the material available on record, by duly taking into consideration the impugned order, dated 09.03.2023, including immovable property security furnished by the petitioner disposed of the case by giving cogent reasons by its order dated 17.12.2024. Even according to the petitioner, there is no dispute that respondent No.1 is entitled for an amount of Rs.2,31,49,456/-.

5.2 He further submitted that in commercial disputes or in a suit for recovery of amount, normally this Court directs the award-debtor/judgment-debtor to deposit 50% of the Award/Decree amount in favour of the award-holder/decree holder. In the present case, the Arbitral Tribunal had passed award for Rs.14,27,72,377/- and this Court taking into consideration the facts and circumstances of the case, directed the petitioner to deposit an amount of Rs.2,31,49,456/- in addition to the amount awarded by the

Commercial Court. Though respondent No.1 is entitled for 50% of the amount awarded by the Arbitral Tribunal, the application filed by the petitioner to recall the order dated 17.12.2024 invoking the provisions under Section 151 of CPC is not maintainable under law.

5.3 He also submitted that the petitioner itself had withdrawn S.L.P. from the Hon'ble Apex Court and filed the present recall application, especially when there is no illegality, irregularity or error in the order dated 17.12.2024 passed by the Division Bench of this Court and the same is liable to be dismissed.

Analysis of the case:

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that respondent No.1 had filed claim statement by claiming various reliefs before the Arbitral Tribunal and the petitioner also filed counter claim and that the Arbitral Tribunal passed Award dated 18.06.2022 holding that respondent No.1 is entitled for an amount of

Rs.14,27,72,377/- from the petitioner along with interest and costs of Rs.25,00,000/-.

7. Aggrieved by the above said Award, the petitioner has filed C.O.P.No.80 of 2022 invoking the provisions under Section 34(2)(B)(ii) and Section 34(2A) of the Act. Along with the said C.O.P., the petitioner filed I.A.No.584 of 2022 seeking stay of execution of the Award passed by the Arbitral Tribunal. Learned Commercial Court allowed the above said application and granted stay of enforcing the award, subject to condition that the petitioner shall deposit an amount of Rs.3 Crores and also furnish unconditional security of immovable property admeasuring 17,415 square yards by its order dated 09.02.2023.

8. Questioning the above said order, respondent No.1 had approached this Court and filed C.R.P. No.1737 of 2024 contending that the Arbitral Tribunal passed award for Rs.14,27,72,377/-. However, the learned Commercial Court directed the petitioner to deposit meager amount of Rs.3 Crores only, instead of directing the petitioner to deposit 50% of the awarded amount, especially when the dispute between

parties is commercial dispute. This Court, after taking into consideration the facts and circumstances of the case and also after hearing the parties, modified the order dated 09.02.2023 passed by the Commercial Court and directed the petitioner to deposit an amount of Rs.2,31,49,456/- in addition to the amount already directed to be deposited by the Commercial Court.

9. It is also pertinent to mention that in commercial disputes, this Court in normal course granting stay of enforcement of the Award passed by the Arbitral Tribunal subject to condition of deposit of 50% of the awarded amount. In money decrees also, this Court while granting stay of execution of the decree while exercising the powers conferred under Order XLI Rule 5 of CPC, directing the judgment-debtor to deposit 50% of the decretal amount. In the case on hand, this Court taking into consideration the facts and circumstances of the case, directed the petitioner to deposit an amount of Rs.2,31,49,456/-, in addition to the amount of Rs.3 Crores directed to be deposited by the Commercial Court, though the learned Arbitral Tribunal passed Award for

an amount of Rs.14,27,72,377/- along with interest and costs of Rs.25,00,000/- in favour of respondent No.1.

10. Insofar as the contention of the learned counsel for the petitioner that the petitioner had deposited Rs.3 Crores and also furnished the security for remaining amount pursuant to the order dated 09.02.2023 of the Commercial Court, and the secured property value is more than Rs.17 Crores and in such circumstances, this Court ought not to have directed the petitioner to deposit further amount of Rs.2,31,49,456/- is concerned, the same are not tenable under law on the ground that the Arbitral Tribunal passed Award dt: 18.06.2022 for an amount of Rs.14,27,72,377/- along with interest and costs and mere furnishing the security to the award amount is not a ground for seeking recall the order of this Court. The nature of the relief sought in this application comes within the ambit of review, especially there is no illegality, irregularity or error in the order dated 17.12.2024 passed by this Court.

11. For the foregoing reasons, this Court does not find any ground to recall the order dated 17.12.2024 passed by this

Court in C.R.P.No.1737 of 2024 and the same is liable to be dismissed.

12. Accordingly, I.A.No.1 of 2025 is dismissed. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

MOUSHUMI BHATTACHARYA, J

J.SREENIVAS RAO, J

Date: 01.08.2025.

PGP