APHC010038142023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3529]**
(Special Original Jurisdiction)

WEDNESDAY, THE TWELFTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

CIVIL REVISION PETITION NO: 173/2023

Between:

Hariprasad Reddy Penubolu Penchala and Others **...PETITIONER(S)**

AND

M/s Shriram City Union Finace Ltd **...RESPONDENT**

Counsel for the Petitioner(S):

1. PHANI TEJA CHERUVU

Counsel for the Respondent:

1. O UDAYA KUMAR

The Court made the following order:*(per Hon'ble Sri Justice R. Raghunandan Rao)*

The respondent herein had obtained an award against the petitioners herein by way of A.R.C.No.126 of 2019, passed by the sole arbitrator. The said award, dated 29.12.2020, had required the petitioners herein to pay a sum of Rs.22,03,056/- with interest. The respondent, for recovery of the said amount, filed E.P.No.125 of 2022, before the Learned VII Additional District Judge, Gudur, for recovery of Rs.25,95,277/- along with subsequent interest.

2. The Executing Court, by an order, dated 05.09.2022, had also issued Rule 54 attachment and notice to the 1st petitioner herein.

3. Aggreived by the same, the petitioners herein moved the present Civil Revision Petition contending that the Executing Court does not have territorial jurisdiction in as much as the award was passed in Hyderabad and the award had already been challenged by way of A.O.P.No.51 of 2021, under Section 34 of the Arbitration and Conciliation Act, 1996, before the Learned XXIV Additional Chief Judge, City Civil Court, Hyderabad.

4. The learned counsel for the petitioners has now contended that the Execution Petition is not maintainable on yet another ground. The learned counsel would contend that the Execution Petition can only be filed before the Commercial Court having territorial jurisdiction and cannot be filed before the Principal District Judge.

5. Sri O. Uday Kumar, learned counsel for the respondents would contend that the said issue cannot be raised in as much as the said issue was never raised as a ground in the Civil Revision Petition nor in the Execution Petition till date.

6. Though the said issue does not appear to have been raised before the Executing Court or before this Court in the grounds of revision, the

fact remains that the issue, now raised by the learned counsel for the petitioner, is an issue of law and the same can always be raised.

7. In a similar situation, a Division Bench of this Court, by Judgment, dated 04.07.2024, in C.R.P.No.740 of 2024, had considered the provisions of the Commercial Courts Act, 2015 and had held that execution of an arbitral award above the sum of Rs.3,00,000/- would have to be done only by the Commercial Court, having territorial jurisdiction, and not the regular Civil Courts.

8. The learned counsel for the respondent would also contend that this Judgment has been doubted by another Judgment of a Division Bench of this Court and the same has now been referred to a Full-Bench.

9. As the Judgment in C.R.P.No.740 of 2024 has not been stayed or suspended, the ratio laid down in the Judgment would continue to hold until the same is modified or reversed by the Full-Bench.

10. In the circumstances, this Civil Revision Petition is allowed, holding that the Court of the Learned VII Additional District Jude, Gudur, would not have jurisdiction to proceed with E.P.No.125 of 2022. However, liberty is given to the petitioners to approach the appropriate Commercial Court of territorial jurisdiction for execution of the award. There shall be no order as to costs.

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

R RAGHUNANDAN RAO, J

T.C.D.SEKHAR, J

Date: 12.03.2025
MJA

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THE HON'BLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

CIVIL REVISION PETITION No.173 of 2023

(per Hon'ble Sri Justice R. Raghunandan Rao)

12.03.2025

MJA