IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY,THE TWENTY FOURTH DAY OF DECEMBER TWO THOUSAND AND TWENTY FIVE

PRESENT
THE HONOURABLE SMT JUSTICE RENUKA YARA

CIVIL MISCELLANEOUS APPEAL NO: 361 OF 2025

Appeal Under Order 41 Rule 1 (r) C.P.C against the Order made in I.A.No.230 of 2025 in Arb.O.P.No.02/2025 dated 03.09.2025 on the file of the Court of the I Additional District & Sessions Judge, Yadagiri Bhongir District.

Between:

1. Sri D. Mahendra Reddy, S/o. D. Indrasena Reddy, Aged about 61 Years, Occ- Business cum Managing Partner of Sree Mahalaxmi Labs, R/o.H.No.Sy.No.-33/C/33/D, Raya Rao Pet, Bibi Nagar, Yadadri Bhongiri District, T.S
2. Smt. D.Vijaya, W/o.Sri D.Mahendra Reddy, Aged about 48 Years, Occ. Business cum Partner of Sree Mahalaxmi Labs, R/o.H.No.Sy.No.-33/C/33/D. Raya Rao Pet, Bibi Nagar, Yadadri Bhongiri.District, T.S
3. M/s. Sree Mahalaxmi Labs, (Regd. Firm No.327 of 2018), rep.by Its Managing Partner Sri D.Mahendra Reddy S/o. D. Indrasena Reddy, Aged about 61 Years, Occ. Business cum Managing Partner of Sree Maha Laxmi Labs,R/o.H.No.Sy.No.-33/C/33/D, Raya Rao Pet, Bibi Nagar, Yadadri Bhongiri.District. T.S.

...APPELLANTS/RESPONDENTS/RESPONDENTS

AND

1. Sri. Taduru Narasimha Reddy, S/o. Taduru Mohan Reddy Aged about 61 Years, Occ- Business cum Partner in Sree Mahalaxmi Labs, R/o. Peerzadiguda.Post, Medipally Mandal, Medchal Malkajgiri. District, T.S.
2. Smt. Taduru Madhavi, W/o. Sri. Taduru Narasimha Reddy Aged about 53 Years, Occ- Business cum Partner in Sree Mahalaxmi Labs, R/o. Peerzadiguda.Post, Medipally Mandal, Medchal Malkajgiri. District, T.S.

...RESPONDENTS/PETITIONERS/PETITIONERS

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the order dated 03.09.2025 in IA No. 230 of 2025 in Arb. OP. No.2 of 2025 passed by the court of I Additional District and Sessions Judge Yadadri Bhongir District at Bhongir pending disposal of the CMA.

Counsel for the Appellants : SRI. J.PRABHAKAR, SR.COUNSEL REP.D.VENKATA PADMAJA

Counsel for the Respondents : SRI JALLI KANAKAIAH, SR.COUNSEL REP. NARENDAR JALLI

The Court made the following: ORDER

IN THE COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SMT. JUSTICE RENUKA YARA

CIVIL MISCELLANEOUS APPEAL NO.361 OF 2025

24TH DAY OF DECEMBER, 2025

Between:

Sri D. Mahendra Reddy and 2 others
...Appellants/Respondents/Respondents

and

Sri Taduru Narasimha Reddy and another
...Respondents/petitioners/petitioners

JUDGMENT:

1. Heard Sri J. Prabhakar, learned Senior Counsel representing Smt. D. Venkata Padmaja, learned counsel for the appellants/respondents/respondents and Sri Kanakaiah Jalli, learned Senior Counsel representing Sri Narender Jalli, learned counsel for respondents/petitioners/ petitioners Perused the record.

2. This Civil Miscellaneous Appeal is preferred under Order 43 Rule 1(r) of CPC aggrieved by the order passed by the learned I Additional District and Sessions Judge, Yadadri-

Bhonir District at Bhongir in I.A.No.230 of 2025 in Arb.O.P.No.2 of 2025, dated 03.09 2025.

3. The I.A.No.230 of 2025 is filed by the respondents herein under Order 39 Rule 1 and 2 r/w Section 151 of CPC seeking temporary injunction to restrain the appellants from alienating the petition schedule property by any mode pending proceedings under the Arbitration and Conciliation Act. The said petition has been allowed issuing ex-parte ad-interim injunction restraining the appellants from alienating the petition schedule property subject to compliance with Order 39 Rule 3 of CPC. Aggrieved by said order, the present Civil Miscellaneous Appeal is preferred.

4. The CMA is filed on the ground that the learned Trial Court lacks jurisdiction to adjudicate petition under Order 39 Rule 1 and 2 of CPC in an Arbitration O.P filed under Section 9 of Arbitration and Conciliation Act. Further, the urgency shown to impress upon the Trial Court to pass *ex parte* order is questioned when the application was filed on 26.04.2025 and the impugned orders were passed on 03.09.2025. Further, it is pleaded that after numbering of the O.P, an Interlocutory

Application could not have been filed under Order I Rule 10 of CPC without notice to the proposed parties as also parties to the petition. The dispute involved is running of the affairs of the firm against the partners. The property which is subject matter of the injunction granted is personal property of appellant No.1 over which charge is created by Axis Bank while availing loan by the partnership firm. There is gross under valuation of the leave sought as the property is worth more than Rs.400 Crores and the dispute relates to a commercial transaction. The issue ought to have been presented before a commercial court as the value is more than Rs.1.00 Crore. Lastly, it is pleaded that ex-parte injunction could not have been granted until further orders.

5. The learned Senior Counsel for the appellants relied upon judgment of the High Court of Judicature, Hyderabad in the case of **Gulf Oil Corporation Limited v. Singareni Collieries Company Limited**[1], wherein, it is held as follows:

> "11. ..... Therefore, the Court has ample power to pass appropriate orders even like ad interim ex parte and also after notice and hearing the respondent, as the facts and circumstances warrant. Therefore, when disputes arise between the parties and where there is a

[1] 2008 (3) ALT 631 (D.B.)

provision for settlement of disputes by arbitration proceedings, the parties may have to approach for any such relief and necessarily it has to be treated only as an interim application and disposed of accordingly.

12. ..... it is brought to our notice that pending all such applications filed under Section 9 of the Act. seeking interim reliefs or measures or for any directions, once again further interim applications are being filed like the present one which is appealed against in this appeal, seeking further or varied interim reliefs by way of injunctions and directions which only amounts to duplication of the very enquiry and adds to the delays in disposal of main interim application and repetition of the exercise. Such action is not only (not) permissible and contemplated under the law but goes far beyond the scope of provision and objects intended under Section 9 of the Act..... Instead of entertaining applications of this nature, which may give scope to the parties to go on filing one application after the other pending the main application under Section 9 of the Act, the endeavour should be to take up the main application under Section 9 of the Act and dispose of the same as expeditiously as possible after appearance of the respondent. Therefore, we hold that having regard to the nature of proceedings as contemplated under Section 9 of the Act, further interim application as has been filed and framed is neither maintainable nor can require to be considered by the Court.

6. On the basis of aforementioned citation the learned Senior Counsel for the appellants argued that the Interlocutory application filed under Order 39 Rule 1 and 2 of CPC to restrain the appellants from alienating or creating charge on the petition schedule property is not maintainable. Further, it is argued that the property involved is personal property of the appellants and said property was merely furnished as security for availing loan from Axis Bank. Further, objection is taken for passing ex-parte interim order when the application under Order 39 Rule 1 and 2 of CPC was signed/filed on 26.04.2025 and the ex-parte order is passed on 03.09.2025 i.e. there is a gap of five months between filing of the petition and passing of the impugned order.

7. It is argued that the learned Trial Court ought to have ordered notice for the appellants to present their case opposing the interim relief to be granted in the I.A. Lastly, it is argued that any interim relief granted should not exceed (30) days whereas order passed by the learned Trial Court is until further orders. On the basis of aforementioned grounds, the learned Senior Counsel prayed that the impugned order be set aside.

8. The learned counsel for the respondents also relied upon the judgment in case of **Gulf Oil Corporation Limited (1 supra)**, wherein, it is held that Section 9 provides for the interim arrangement, protection of rights or any direction which may warrant on the facts and circumstances and the party can invoke said provision to seek any said relief as satisfied thereunder and therefore, the relief enshrined thereunder can safely be put on par with like a grant of injunction, ad interim injunction or appointment of a Receiver etc., as provided for under the regular procedure in the Code of Civil Procedure. Further, reliance is placed upon judgment of the Hon'ble Supreme Court of India in case of **Essar House (P) Ltd. v. Arcellor Mittal Nippon Steel India Ltd.**[2], wherein, it is held as follows:

> "48. Section 9 of the Arbitration Act confers wide power on the Court to pass orders securing the amount in dispute in arbitration, whether before the commencement of the arbitral proceedings, during the arbitral proceedings or at any time after making of the arbitral award, but before its enforcement in accordance with Section 36 of the Arbitration Act. All that the Court is required to see is, whether the of

[2] 2022 (6) ALD 257 (SC)

applicant for interim measure has a good at prima facie case, whether the balance of convenience is in favour of interim relief as prayed for being granted and whether the applicant has approached the Court with reasonable expedition."

9. The learned counsel for the respondents did not squarely address the issue of whether a petition filed under Order 39 Rule 1 and 2 of CPC seeking interim order is maintainable in an Arbitration O.P filed under Section 9 of Arbitration and Conciliation Act. Rather the learned counsel argued that alienation of the petition schedule property would cause irreparable loss and therefore, the matter may be remanded to the Trial Court with some interim arrangement to protect the rights of the respondents.

10. The judgment of this Court in **Gulf Oil Corporation Limited (1 supra)** clearly held that a petition under Order 39 Rule 1 and 2 of CPC is not maintainable. The very nature of relief to be sought under Section 9 of Arbitration and Conciliation Act is interim relief and therefore, further petitions to be filed seeking interim relief are not contemplated. To put it simply, the I.A is not maintainable. Further, the Trial Court ought to have considered the factual aspect of filing of the

Interlocutory Application in April, 2025 and pressing for interim relief in the month of September, 2025. The gap of (5) months between signing/filing of the application and pressing for interim orders shows that there was no urgency to press for interim reliefs. Even otherwise, the Trial Court could have issued notice before passing interim order. Also, without adjudication of the Arbitration O.P on merits, interim order until further orders should not have been granted.

11. In view of the foregoing discussion, this Civil Miscellaneous Appeal is allowed setting aside the order passed by the learned I Additional District and Sessions Judge, Yadadri-Bhongir District at Bhongir in I.A.No.230 of 2025 in Arb.O.P.No.2 of 2025, dated 03.09 2025.

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

SD/- M. RAMANA KRISHNA
JOINT REGISTRAR

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SECTION OFFICER

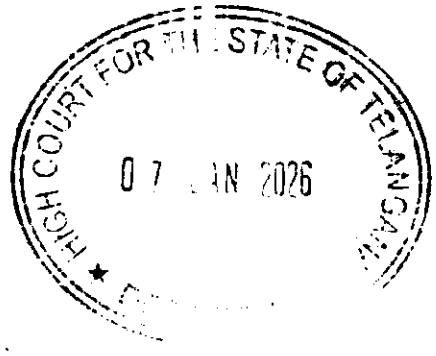
To,

1. The I Additional District & Sessions Judge, Yadagiri Bhongir District.
2. One CC to Sri D.Venkata Padmaja, Advocate (OPUC)
3. One CC to Sri Narender Jalli, Advocate (OPUC)
4. Two CD Copies

Ks/Sa

HIGH COURT

DATED:24/12/2025



JUDGMENT

CMA.No.361 of 2025

ALLOWING THE C.M.A
WITHOUT COSTS.

(6)

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3/1/26.