

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY ,THE SEVENTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO**

CIVIL REVISION PETITION NO: 1737 OF 2024

Petition filed under Article 227 of the Constitution of India, against the Order dated 09.02.2023 passed in I.A.No. 584 of 2022 in C.O.P.No. 80 of 2022 on the file of the Court of the Principal Special Court in the cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad.

(amended as per Court Order dated 18.10.2024 vide I.A.No. 3 of 2023 in CRP No. 1737 of 2024)

Between:

Saketa Saatvik LLP, Sy. No.166/5/Part, H.No.37, Praneeth Pranav orchids,
Opp.: Oakridge International School, Bowrampet, Hyderabad, Telangana-
500043

...Petitioner

AND

1. Saketa Vaksana LLP, Represented by its authorized signatory, Having Registered Office at. Flat No 302, Plot No 57, Jayabheri Enclave, Sy No 103/1, 105 and 106, Gachibowli Village, Serilingampally, Telangana-500046
2. Justice Arbitrator, S. Ananda Reddy, R/o. C-402, Fortune Enclave, Road no.12, Banjara hills, Hyderabad-500 034.

...Respondents

IA NO: 2 OF 2024

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit Petitioner to withdraw an amount of Rs. 3,00,00,000/- (Rupees Three Crores Only) deposited by the 1st Respondent pursuant to the interim order dated 09.02.2023 in IA 584 of 2023 in COP 80 of 2022 passed by Principal Special Court in the cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad

Counsel for the Petitioner : Sri Alluri Krishnam Raju

**Counsel for Respondent No.1 : Mr. Raghavendra Mohan Bajaj representing
Mr. Anup Koushik Karavadi**

Counsel for Respondent No.2 : None appeared

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CIVIL REVISION PETITION No.1737 of 2024

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Alluri Krishnam Raju, learned counsel for the petitioner.

Mr. Raghavendra Mohan Bajaj, learned counsel representing Mr. Anup Koushik Karavadi, learned counsel for the respondent No.1, appears through video conferencing.

2. With the consent of the learned counsel for the parties, the petition is heard finally.

3. This petition emanates from an order dated 09.02.2023 passed by the Principal Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad (hereinafter referred to as, "the Commercial Court") by which the application

preferred by the respondent No.1 under Section 36 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as, "the Act"), namely I.A.No.584 of 2022 in C.O.P.No.80 of 2022, has been allowed and the award dated 18.06.2022 passed by the arbitral tribunal has been stayed subject to the conditions mentioned in the order. In order to appreciate the grievance of the petitioner, relevant facts need mention.

4. The petitioner and the respondent No.1 are Limited Liability Partnership (LLP) firms constituted under the provisions of the Limited Liability Partnership Act, 2008. The petitioner and the respondent No.1 entered into a Supplemental LLP Agreement dated 13.12.2017. Clause 46 of the LLP Agreement dated 13.11.2007 provides for resolution of the disputes through arbitration as per the provisions of the Act.

5. Disputes arose between the parties and they were referred to arbitral tribunal. The arbitral tribunal passed an award dated 18.06.2022 by which the respondent No.1

was directed to pay the following amounts to the petitioner:

- (a) Rs.8,06,85,000/- within 30 days from the date of the award, failing which there will be an interest of 18% per annum levied on this sum; (b) Rs.2,31,49,456/- within 30 days from the date of the award, failing which there will be an interest of 18% per annum levied on this sum; (c) interest amounting to Rs.3,89,37,921/- within 30 days from the date of the award, failing which there will be an interest of 18% per annum levied on this sum; and (d) costs of Rs.25,00,000/-.

6. The respondent No.1 challenged the aforesaid award in a proceeding under Section 34 of the Act before the Commercial Court. Along with the petition under Section 34 of the Act, an application under Section 36 of the Act seeking stay of the arbitral award was also filed. The Commercial Court, by an order dated 09.02.2023, has allowed the aforesaid application. The operative portion of the said order reads as under:

“21. In the result, petition is allowed by staying the enforcement of the award passed by the learned

arbitrator dated 18-06-2022 on condition that the petitioner to deposit the sum of Rs.3,00,00,000/- (Rupees Three Crores Only) within a period of three months from the date of this order and also to furnish unconditional security of the property i.e., the property admeasuring 17,415 sq. yards in Sy.No.367 located at Paidipalli Village, Hanamkonda Mandal, Warangal Urban District.”

In the aforesaid factual background, the petitioner has filed this petition.

7. Learned counsel for the petitioner submitted that the Commercial Court ought to have appreciated that the arbitral tribunal awarded a sum of Rs.14,27,72,377/- along with interest and costs. It is further submitted that the Commercial Court ought to have stayed the award subject to deposit of 50% of the amount awarded by the arbitral tribunal. It is also pointed out that the arbitral tribunal ought to have appreciated that a sum of Rs.2,31,49,456/- was an admitted liability. It is also contended that the petitioner ought to have been permitted to withdraw the sum deposited by the respondent No.1.

8. On the other hand, learned counsel for the respondent No.1 submits that the Commercial Court has exercised the discretion while imposing condition which can neither be termed as arbitrary nor unreasonable. It is further submitted that the Commercial Court has assigned valid and cogent reasons for imposing the conditions mentioned therein. It is contended that the order does not call for any interference in exercise of supervisory jurisdiction of this Court under Article 227 of the Constitution of India. In support of his submission, reliance has been placed on the decision of the Supreme Court in **Deep Industries Limited v. Oil and Natural Gas Corporation Limited**¹.

9. We have considered the submissions made on both sides and have perused the record.

10. The Court while dealing with the prayer for grant of stay of execution of a money decree has to balance the

¹ (2020) 15 SCC 706

equities between the parties and has to ensure that no undue hardship is caused to a decree holder due to stay of execution of such decree.

11. In the instant case, the arbitral tribunal has awarded a sum of Rs.14,27,72,377/- along with interest and costs. From perusal of the paragraphs 19 and 20 of the order passed by the Commercial Court, it is evident that the Commercial Court has not taken into account the total amount of Rs.14,27,72,377/- along with interest and costs awarded in favour of the petitioner. The Commercial Court has completely failed to appreciate that the respondent No.1 had admitted the liability to the extent of Rs.2,31,49,456/-. The aforesaid aspects of the matter which are crucial for determining the conditions with regard to grant of stay have been ignored by the Commercial Court. Therefore, we are of the opinion that the power to grant stay of the award has not been exercised on sound principles of law and the same is

exercised erroneously. The impugned order therefore suffers from error apparent on the face of record.

12. In the peculiar facts and circumstances of the case, we are inclined to modify the order passed by the Commercial Court only to the extent it directs deposit of the amount.

13. It is, therefore, directed that the respondent No.1 shall deposit a sum of Rs.2,31,49,456/- in addition to the amount already directed to be deposited by it, within a period of three months from today.

14. Needless to state that it will be open for the petitioner to make applications seeking withdrawal of the amount deposited by the respondent No.1, if so advised.

15. It is stated at the bar that the proceeding before the Commercial Court are fixed for final arguments on 22.01.2025. The Commercial Court shall make an endeavour to decide the petition preferred by the respondent No.1 under Section 34 of the Act expeditiously.

16. Accordingly, the civil revision petition is disposed of.
There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Principal Special Court in the cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad.
2. One CC to Mr. Alluri Krishnam Raju, Advocate [OPUC]
3. One CC to Mr. Anup Koushik Karavadi, Advocate [OPUC]
4. Two CD Copies

Njb/gh

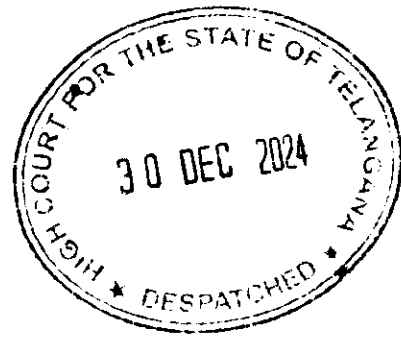


HIGH COURT

DATED:17/12/2024

ORDER

CRP.No.1737 of 2024



DISPOSING OF THE CRP
WITHOUT COSTS

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26/12/24
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