

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE THIRD DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

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

CIVIL REVISION PETITION NOS: 4156 AND 4220 OF 2024

CIVIL REVISION PETITION NO: 4156 OF 2024

Petition under Article 227 of the Constitution of India aggrieved by the Docket Order dated 19-09-2024 made in C.E.A. No. 1 of 2024 in C.E.P. No. 8 of 2024 on the file of the Court of the Additional Special Court in the Cadre of District Judge, for Trial and Disposal of Commercial Disputes at Hyderabad, City Civil Court, Hyderabad.

Between:

The Superintending Engineer, M/s Andhra Pradesh Tourism Development Corporation Ltd. No. 55-17-2 to 4, 5th Floor, Near CGO Complex Industrial Estate, Autonagar, Vijayawada, Andhra Pradesh

...Petitioner / Respondent / Judgment Debtor
in Both the CRPs

AND

KPC Projects Limited, Having its Corporate Office at KPC One, Floor No's 2 to 5, H.No.6-3-347/9/2, Dwarakapuri Colony, Panjagutta, Hyderabad

Rep its Authorized Person and Senior Manager, VSV Prasad, S/o. Late Rama Rao, Aged about 63 years. Occupation Employee, and also Corporate Office at. KPC One, Floor No's 2 to 5, H.No.6-3-347/9/2, Dwarakapuri Colony, Panjagutta, Hyderabad

...Respondent / Petitioner / Decree Holder / Claimant
in Both the CRPs

IA NO: 1 OF 2024

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 stay of all further proceedings in CEP No. 8 of 2024, on the file of the Court of the

Addl., Special Court in the Cadre of District Judge, for Trial and Disposal of Commercial disputes at Hyderabad, City Civil Court, Hyderabad pending disposal of the CRP in the interest of justice.

IA NO: 2 OF 2024

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 Docket order passed in C.E.A. No. 1 of 2024 in C.E.P. No. 08 of 2024 dt 19-09-2024 on the file of the court of the Addl. Special Court in the Cadre of District Judge for Trial and Disposal of commercial disputes at Hyderabad, City Civil Court Hyderabad pending disposal of the CRP in the interest of justice.

CIVIL REVISION PETITION NO: 4220 OF 2024

Petition under Article 227 of the Constitution of India aggrieved by the Docket Order dated 18-12-2024 made in C.E.A.No. 16 of 2024 in C.E.P.No. 8 of 2024 on the file of the Court of the Additional Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad, City Civil Court, Hyderabad.

IA NO: 1 OF 2024

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 stay of all further proceedings in CEP.No. 8 of 2024, on the file of the Court of the Addl. Special Court in the Cadre of District Judge, for Trial and Disposal of Commercial disputes at Hyderabad, City Civil Court, Hyderabad pending disposal of the CRP in the interest of justice.

IA NO: 2 OF 2024

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 Docket order passed in C.E.A No. 16 of 2024 IN C.E.P. No 08 of 2024 dt., 18-12-2024 on the file of the Court of the Addl. Special Court in the Cadre of District Judge, for Trial and Disposal of Commercial disputes at

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Hyderabad, City Civil Court, Hyderabad pending disposal of the CRP in the interest of justice.

Counsel for the Petitioner : **Mr C V Mohan Reddy, Senior Counsel**
in Both the CRPs : **Rep Mr Dhananjaya Naidu Kolla**
[through Video Conference]

Counsel for the Respondent : **Mr Arvind Kumar Agarwal**

The Court made the following Common Order :

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CIVIL REVISION PETITION Nos.4156 and 4220 of 2024

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

Mr. C.V.Mohan Reddy, learned Senior Counsel representing Mr. K.Dhananjaya Naidu, learned counsel for the petitioner, appears through video conferencing.

Mr. Arvind Kumar Agarwal, learned counsel for the respondent.

2. With the consent of the learned counsel for the parties, the civil revision petitions are heard finally.

3. In C.R.P.No.4156 of 2024, the petitioner has assailed the validity of the order dated 19.09.2024 passed in C.E.A.No.1 of 2024 in C.E.P.No.8 of 2024, whereas in C.R.P.No.4220 of 2024, the petitioner has assailed the validity of the order dated 18.12.2024 passed in C.E.A.No.16 of 2024 in C.E.P.No.8 of 2024 by the Court of

the Additional Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad, City Civil Court, Hyderabad (hereinafter referred to as, "the Executing Court"). The common issue arises for consideration in these civil revision petitions i.e., with regard to territorial jurisdiction of the Executing Court to deal with the execution petition filed by the petitioner. Therefore, these civil revision petitions are heard analogously and are being decided by this common order.

4. Facts leading to filing of these civil revision petitions briefly stated are that the petitioner is the Andhra Pradesh Tourism Development Corporation Limited (hereinafter referred to as, "the judgment debtor") and is controlled by the Government of Andhra Pradesh. The judgment debtor has entered into an agreement on 15.04.2013 with the respondent, namely KPC Projects Limited (hereinafter referred to as, "the decree holder"). Under the aforesaid agreement, the decree holder had agreed to execute the work of construction of buildings at the rates agreed upon and shown in the Schedule A of the agreement. Clause 22

of the agreement provides for settlement of disputes through arbitration. Clause 22.2(c) of the agreement provides that the arbitration proceedings shall be held at Hyderabad, which reads as under:

“22.2(c) Arbitration proceedings shall be held at Hyderabad, India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.”

5. A dispute had arisen between the parties and therefore the arbitral tribunal was constituted. The arbitral tribunal passed an award on 03.12.2022 at Hyderabad by which a sum of Rs.3,17,32,913/- along with interest has been awarded in favour of the decree holder.

6. The judgment debtor did not challenge the award by filing a petition under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as, “the Act”). The award passed in favour of the decree holder has attained finality. Thereafter, the decree holder filed a petition seeking execution of the award dated 03.12.2022 before the Executing Court. The judgment debtor entered

appearance and raised an objection that the Court in Hyderabad does not have territorial jurisdiction to deal with the execution petition, as the office as well as assets of the judgment debtor are situated in the State of Andhra Pradesh i.e., beyond the territorial jurisdiction of the Court in Hyderabad.

7. The Executing Court after hearing the parties, by an order dated 19.09.2024, *inter alia*, held that the venue of arbitration is Hyderabad and the proceedings of the arbitral tribunal were conducted in Hyderabad. It was further held that since the award was passed in Hyderabad in pursuance of the agreement between the parties, therefore the Executing Court, had jurisdiction to deal with the execution petition filed by the decree holder. The Executing Court also directed the judgment debtor to furnish the list of assets in Form No.16A of Appendix E of the Code of Civil Procedure, 1908 (CPC), within a period of four weeks from the date of the order.

8. The judgment debtor thereupon furnished an undertaking on 29.11.2024 that direction contained in the

order dated 19.09.2024 shall be complied with and sought time on 16.12.2024 to comply with said order dated 19.09.2024. Thereafter, the judgment debtor filed an objection before the Executing Court that it had no jurisdiction to entertain execution proceeding and sought extension of time to comply with the order dated 19.09.2024. The aforesaid application was rejected by an order dated 18.12.2024. In C.R.P.No.4156 of 2024 the order dated 19.09.2024 has been challenged, whereas in C.R.P.No.4220 of 2024, the judgment debtor has assailed the order dated 18.12.2024 passed by the Executing Court.

9. Learned Senior Counsel for the judgment debtor submitted that the Executing Court ought to have appreciated that the assets of the judgment debtor are situated beyond the territorial jurisdiction of the Court and therefore the Executing Court had no territorial jurisdiction to proceed with the execution petition. It is further submitted that the decree holder ought to have filed an application to the Court seeking transfer of the decree. In support of the aforesaid submission, reliance has been

placed on the decision of the Supreme Court in **Sundaram Finance Limited v. Abdul Samad**¹.

10. On the other hand, learned counsel for the decree holder has submitted that by the impugned order dated 19.09.2024, the judgment debtor has been asked only to furnish the list of assets and the issue relating to jurisdiction of the Executing Court to proceed further with the execution of the decree is yet to be decided. In support of the aforesaid submission, reliance has been placed on the decision rendered by a learned Single Judge of the High Court of Calcutta in **MSTC Limited v. Krishna Coke (India) Private Limited**².

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

12. Before proceeding further, it is apposite to take note of the relevant provisions of CPC.

¹ (2018) 3 SCC 622

² 2019 SCC OnLine Cal 7293

13. Order XXI of CPC deals with execution of decrees and orders. Order XXI Rule 5 provides for the mode of transfer, whereas Order XXI Rule 6 deals with the procedure where Court desires that its own decree shall be executed by another Court. Order XXI Rule 41(1) of CPC provides that where a decree is for the payment of money, the decree holder may apply to the Court for an order that the judgment debtor or where the judgment debtor is a corporation, any officer thereof, or any other person, be orally examined as to whether any or what debts are owing to the judgment debtor and whether the judgment debtor has any and what other property or means of satisfying the decree. Order XXI Rule 41(2) of CPC, which is relevant for the purposes of controversy involved in these civil revision petitions, reads as under:

“(2) Where a decree for the payment of money has remained unsatisfied for a period of thirty days, the Court may, on the application of the decree-holder and without prejudice to its power under sub-rule (1), by order require the judgment-debtor or where the judgment-debtor is a corporation, any officer thereof, to make an affidavit stating the particulars of the assets of the judgment-debtor.”

14. Now we may advert to the decision of the Supreme Court in **Sundaram Finance Limited** (supra). In **Sundaram Finance Limited** (supra), the Supreme Court dealt with the following issue, which is stated in the opening paragraph of the judgment:

“1. The divergence of legal opinion of different High Courts on the question as to whether an award under the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the said Act”) is required to be first filed in the court having jurisdiction over the arbitration proceedings for execution and then to obtain transfer of the decree or whether the award can be straightaway filed and executed in the Court where the assets are located is required to be settled in the present appeal.”

The aforesaid issue was answered by the Supreme Court in paragraph 22 of the judgment in the following terms:

“20. We are, thus, unhesitatingly of the view that the enforcement of an award through its execution can be filed anywhere in the country where such decree can be executed and there is no requirement for obtaining a transfer of the decree from the

Court, which would have jurisdiction over the arbitral proceedings.”

15. However, in the instant case, the Executing Court has required the judgment debtor to furnish the particulars of its assets in Form No.16A of Appendix E of CPC. The Executing Court, after requisite information is furnished by the judgment debtor, has to determine whether it has territorial jurisdiction to proceed further with the execution proceeding. On determination of such a question, the Executing Court has to proceed further. The Executing Court, without ascertaining whether or not the properties of the judgment debtor are situated within the territorial jurisdiction, has held as follows:

“On perusal of the arbitration clause mentioned in the agreement between the parties, it is agreed that the arbitration proceedings shall be held at Hyderabad and the proceeding were held at Hyderabad and award was passed in Hyderabad in pursuance to the agreement between the parties and this court has jurisdiction to entertain the present CEP.”

16. Thus, it is evident that the Executing Court failed to advert itself to the issue with regard to territorial jurisdiction and in a cryptic and cavalier manner has recorded a finding that it has jurisdiction to proceed further with the execution proceedings. The order passed by the Executing Court does not contain any cogent reasons for arriving at the conclusion that it has territorial jurisdiction to proceed further with the execution proceedings. The order passed by the Executing Court only records the conclusion and not the relevant reasons. The same, therefore, cannot be sustained in the eye of law.

17. For the aforementioned reasons and in the facts and circumstances of the case, the order dated 19.09.2024 passed in C.E.A.No.1 of 2024 in C.E.P.No.8 of 2024 and order dated 18.12.2024 passed in C.E.A.No.16 of 2024 in C.E.P.No.8 of 2024 insofar as it records a finding that the Executing Court has jurisdiction to deal with the execution proceeding, is set aside.

18. The judgment debtor is directed to furnish the information with regard to its assets in Form No.16A of Appendix E of CPC within a period of three weeks from today. Thereupon, the Executing Court shall deal with the objection with regard to the territorial jurisdiction raised by the judgment debtor afresh by a speaking order and shall decide the execution proceedings in accordance with law.

19. Accordingly, the civil revision petitions are disposed of.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

Sd/- A.V.S. PRASAD
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Additional Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad, City Civil Court, Hyderabad
2. One CC to Mr Dhananjaya Naidu Kolla, Advocate [OPUC]
3. One CC to Mr Arvind Kumar Agarwal, Advocate [OPUC]
4. Two CD Copies

VA/gh



HIGH COURT

DATED:03/01/2025



COMMON ORDER

CRP.Nos.4156 & 4220 of 2024

DISPOSING OF BOTH THE CRPs

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[Signature]
03/1/2025