
(1997) 09 AP CK 0035

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 3244 of 1997

State of Andhra Pradesh and Others

APPELLANT

Vs

M. Sankara Reddy

RESPONDENT

Date of Decision : 17-09-1997

Acts Referred:

Arbitration Act, 1940 — Section 20, 8(1)

Citation : (1999) 2 ALD 160 : (1997) 6 ALT 207

Hon'ble Judges : B.K. Somasekhara, J

Bench : Single Bench

Advocate : Govt. Pleader, for the Appellant;

Judgement

B.K. Somasekhara, J.—This case is covered by the authoritative pronouncement of the Supreme Court in *Vuda v. V. Narayana Raju* 1995(2) Scale 234, and a latest pronouncement of a Division Bench of this Court in *T.T.D. Committee v. M. Rama Murthy* 1996(1) A.L.D. 1149.

2. The question involved is whether the parties to an agreement can stipulate that the dispute between them exceeding the value of Rs. 50,000/- should be arbitrated through a Court. The respondent is a contractor. He and the petitioners entered into an agreement on 9-7-1986 in regard to certain work with a stipulation that their disputes should be arbitrated as follows :

(i) Claim upto Rs. 10,000 Superintending Engineer, Irrigation Circle, Vijayawada. (ii) Claims of Rs. 10,000 and Chief Engineer Srisailam Project. above upto Rs. 50,000. (iii) Claims of Rs. 50,000 and Court of competent jurisdiction. above

O.P. No. 7/94 was filed by the respondent before the Additional Subordinate Judge, Ongole u/s 8(1)(b) and Section 20 of the Arbitration Act to pass appropriate Award which was opposed by the petitioner. The learned Subordinate Judge in paragraph 13 of the impugned order dated 18-2-1997 held that in view of the fourteen claims made by the respondent, the Court was not in a position

to act as an arbitrator as it will have no time and therefore directed the respondent to submit a list of panel of three arbitrators. Aggrieved by the same, the present revision petition is filed.

3. The petitioners are the respondents in O.P. No. 7/94. Ms. Malathi, the learned counsel for the petitioners has contended that the ground on which the impugned order is passed is not supportable and secondly, the law having been settled in the two pronouncements cited above, an application for reference of dispute to the Court for arbitration for the claim of such a value is not maintainable. But such an application can be treated as a plaint subject to fulfilling formalities like payment of Court-fees. Rightly, as contended by the learned advocate for the petitioners the two pronouncements have set at naught the question involved in the case. The impugned order is opposed to settled law. An interesting question may normally arise whether the parties can agree that a court can arbitrate a dispute regarding the claim upto a particular limit. The jurisdiction of the Court to deal with any claim of civil nature is prescribed u/s 9 C.P.C. and whether they want it or not, jurisdiction is vested and exercised. Even when there is such a stipulation in the arbitration agreement, it only means that parties can go to Court for adjudication by Court and not by arbitration.

4. Therefore, in view of the fact that law has been settled in the matter holding that the parties to agreement to get a decision from the Court without any arbitration in judgment (2) cited supra, the petition of the petitioners should be treated as a plaint subject to other conditions to be fulfilled in law. There is no representation for the respondent.

5. In the result, the revision petition is allowed and the impugned order of the learned Additional Subordinate Judge Ongole in O.P. No. 7/94 dated 18-2-1997 is set aside. The matter is remanded back to the learned Additional Subordinate Judge, Ongole to treat the petition O.P. No. 7/94 as a suit and dispose it of according to law subject to fulfilling all the conditions by the petitioners in regard to plaint.

6. Order accordingly.