
(1999) 09 SC CK 0040

In the Supreme Court Of India

Case No : C.A. No. 7246 of 1993 with C.A. No's. 658 of 1994, 4650 of 1998 and 207 of 1999

State of A.P. and Another

APPELLANT

Vs

Obulu Reddy

RESPONDENT

Date of Decision : 21-09-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 8

Citation : (1999) 6 SCALE 235

Hon'ble Judges : N. Santosh Hegde, J;M. Srinivasan, J;G. B. Pattanaik, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. Out of these four appeals, two appeals have been preferred by the State of Andhra Pradesh and the other two appeals have been preferred by the private claimants. In the appeals filed by the State, the claimants made an application before the Sub-ordinate Judge for appointing an Arbitrator, the claim being more than 50,000/- in terms of G.O. Ms. 430.

2. The learned Sub-ordinate Judge appointed an Arbitrator which was assailed by the State in the High Court contending inter alia, that even under G.O. Ms. 430 the claim above Rs. 50,000/- is required to be decided upon by filing a Suit and not by Arbitrator. The High Court however rejected the said contention hence the present appeals.

3. In the appeals filed by the claimants the subordinate Judge having appointed, Arbitrator, the claim being more than Rs. 50,000/-. The State of Andhra Pradesh assailed the said appointment of Arbitrator and the High Court, following the judgment of this Court in Vishakapatnam Urban Development Authority v. V. Narayana Raju 1995 (2) SCALE 234, set aside the order of appointment of Arbitrator by the Sub-ordinate Judge. Hence, the claimants are in appeal. (sic) making when these four appeals came up for hearing before a Bench of two learned judges of this Court, it felt that there has been a (sic) of views in the two

judgments of this Court both by a two Judge Bench; one in the Case of State of Andhra Pradesh v. I Devender Reddy 1993(2) SCALE 732 and the other in the Vishakapatnam's case 1995 (2) SCALE 234, (sic) the matter has been referred to a (sic) Bench and has been placed before us for consideration and decision.

4. In the earlier case, Devender Reddy's case (supra), the claim was for more than Rs. 50,000/- and the point for consideration before this Court was whether the second notification issued by the State of Andhra Pradesh, namely, G.O. Ms. 160 is prospective or applies to the pending case before the issuance of the said notification. This Court came to the conclusion that the second notification is prospective in nature and there is no dispute over the same. But, the question whether the second notification is merely a clarificatory one or carves out a new forum was not for consideration. In the second case Vishakapatnam Urban Dev. Authority v. V. Narayana Raju 1995 (2) SCALE 234 this Court examined the earlier G.O.Ms. No. 430 dated 24th October, 1983 and came to the conclusion that under the said G.O. Ms. the arbitration is provided for only in respect of the claims upto Rs. 50,000/- and not above, making it clear, therefore, that the claims above Rs. 50,000/- are to be adjudicated upon by a court of competent jurisdiction by filing a regular suit. It is true that while deciding Vishakapatnam's case the earlier judgment of this Court in Devender Reddy's case was not brought to the notice. But having examined G.O. Ms. No. 430 we have no hesitation to agree with the conclusions arrived at in Vishakapatnam case and hold that under the said G.O. Ms. question of deciding claims above Rs. 50,000/- by way of arbitration does not arise. It merely provided that disposal of claims up to Rs. 50,000/- by way of arbitration indicating as to who would be the arbitrator depending upon the claims and all claims above Rs. 50,000/- are to be filed before the Civil Court of competent jurisdiction. This being the position, the second G.O. Ms. No. 160 is nothing but a clarificatory one and was required to be issued because of the confusion arising in the minds of some of the claimants as well as the Civil Court inasmuch as the Civil Court did entertain application u/s 8 and appoint arbitrator in respect of claims above Rs. 50,000/-. The earlier judgment of this Court in D. Reddy's case has interpreted G.O. Ms. No. 430 in a manner which is not the correct interpretation according to us. The orders appointing arbitrator u/s 8 in the two appeals filed by the State are set aside. The appeals filed by the State are allowed.

5. In C.A. No. 7246/93 filed by the State, it is brought to our notice that not only an arbitrator was appointed by the Sub-ordinate Judge, but an award has already been given. In view of our aforesaid decision, the said award is a nullity and stands annulled.

6. The appeals filed by the claimants stand dismissed.