

**THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

C.M.A.No.62 OF 2015

JUDGMENT:- (per Hon'ble Sri Justice K.C.Bhanu)

This Civil Miscellaneous Appeal, under Section 37 of the Arbitration and Conciliation Act, 1996, is filed by the appellant/claim petitioners assailing the order, dated 17.11.2014, in Arbitration O.P.No.843 of 2012 on the file of the Principal District Judge, Warangal.

2. Appellant No.1 herein borrowed an amount of Rs.2.00 lakhs from respondent No.1 herein agreeing to repay the same with interest at 23.50% flat per annum to be repaid in thirty equal monthly instalments at Rs.10,584/- each commencing from 7.5.2008 with last instalment payable on 7.10.2010. Appellant Nos.2 and 3 herein stood as guarantors to the said amount. Out of the amount due, Rs.68,882/- only was repaid by the appellants and later, committed default in paying the balance due amount. Respondent No.1 issued a demand notice on 16.5.2011 calling upon the appellants to pay the entire amount due and also informed that in the event of non-compliance of such demand, the matter would be referred to respondent No.2 – Arbitrator to resolve the dispute. As there was no response from the appellants, respondent No.1 referred the dispute before respondent No.2 requesting to pass an award for Rs.3,71,647/- with future interest at 36% per annum from the date of claim petition till realization and for costs. In spite of giving sufficient opportunity, as the appellants did not choose to appear before the Sole Arbitrator, an Award was passed on 24.5.2012 in Arbitration Case No.105 of 2011. Respondent No.1 also filed E.P.No.325 of 2012 and the same is pending on the file of the Principal Senior Civil Judge, Warangal. Challenging the said Award,

the claim petitioners filed Ar.O.P.No.843 of 2012 before the Principal District Judge, Warangal and the same was dismissed. Aggrieved thereby, the claim petitioners filed the present appeal.

3. Heard.

4. Learned counsel for the appellants/claim petitioners agreed to pay the awarded amount in six (6) equal monthly instalments for which learned counsel for respondent No.1 reported no objection. Therefore, the appellants are directed to deposit the awarded amount together with interest and costs in six (6) equal monthly instalments. The first instalment shall be paid on or before 10th of March, 2015 and the remaining instalments shall be paid on or before 10th of every succeeding month. If the appellants fail to pay even one month's instalment as agreed, the Executing Court shall proceed further. Till then, the proceedings of the Executing Court shall be kept in abeyance.

5. With the above direction, the Civil Miscellaneous Appeal is disposed of. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

JUSTICE K.C.BHANU

JUSTICE M.SEETHARAMA MURTI

Date: 24.02.2015
AMD

**THE HON'BLE SRI JUSTICE K.C.BHANU
AND**

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