

THE HON'BLE SRI JUSTICE SANJAY KUMAR
and
THE HON'BLE SMT JUSTICE ANIS

CIVIL MISCELLANEOUS APPEAL No.491 of 2016

JUDGMENT: (per SK, J)

This Civil Miscellaneous Appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for brevity 'the Act of 1996'), arises out of the order dated 20.04.2016 passed by the learned II Additional Chief Judge, City Civil Court, Hyderabad, in O.P.No.1743 of 2015.

The said O.P. was filed by the appellant herein under Section 34 of the Act of 1996 to set aside the Arbitration Award dated 11.08.2015 passed by the Sole Arbitrator in Arbitration Application No.144 of 2013. The arbitration proceedings were in relation to a lease between respondents 1 and 2 herein, the lessors, and the appellant, the lessee, under registered lease deed dated 11.06.2012. Respondents 1 and 2 sought eviction of the appellant and also payment of arrears and damages. The appellant however denied their claim. The matter was accordingly referred to arbitration in terms of the arbitration clause contained in the registered lease deed dated 11.06.2012. Upon consideration of the matter, the Sole Arbitrator passed Arbitration Award dated 11.08.2015, directing the appellant herein to vacate the leased premises and handover the peaceful vacant possession thereof by

31.08.2015 and in the event he failed to do so, he was held liable to pay damages to the tune of Rs.2,40,000/- per month for every month of default or part thereof. The appellant was also directed to pay damages towards his occupation of the leased premises.

The appellant filed O.P.No.1743 of 2015 before the learned II Additional Chief Judge, City Civil Court, Hyderabad, under Section 34 of the Act of 1996 to set aside the said Award. By the order under appeal, the Court below held that no grounds, as stipulated in Section 34 of the Act of 1996, were made out to set aside the Award. The Court below also found that the Sole Arbitrator had discussed every material fact asserted and controverted by the parties and had given cogent reasons and therefore, the Award could not be held invalid on any of the grounds envisaged under Section 34 of the Act of 1996. The petition was accordingly dismissed. Hence, this appeal.

Heard Sri Sudhakar Reddy, learned counsel representing Sri H. Venugopal, learned counsel for the appellant, and Sri Anand Kumar Kapoor, learned counsel representing M/s.Lawyers & Solicitors, learned counsel for respondents 1 and 2.

Sri Sudhakar Reddy, learned counsel, would contend that the Sole Arbitrator and the Court below erred in not taking note of the fact that the appellant paid Rs.5,000/- per day to the

lessors, respondents 1 and 2 herein, and having received such amounts, the lessors are deemed to have waived their right to seek eviction of the appellant. However, the learned counsel fairly conceded that there is no written document evidencing the understanding between the parties to the effect that a sum of Rs.5,000/- per day would be payable by the lessee, the appellant herein, to continue his occupation of the leased premises. As rightly pointed out by the Sole Arbitrator and taken note of by the Court below, once the registered lease deed did not envisage such an event, an alleged oral understanding, as claimed by the appellant, cannot unsettle the express terms thereof. The learned counsel would also concede that but for this aspect, there are no other issues that can be raised against the order under appeal or the Arbitration Award. This being the situation, we find no reason to interfere as no grounds, as set out in Section 34 of the Act of 1996, are established to set aside the well-reasoned and cogent Award passed by the Sole Arbitrator.

The appeal is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

29th NOVEMBER, 2016.

kvni

SANJAY KUMAR, J

ANIS, J