

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT
HYDERABAD

HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

CIVIL MISCELLANEOUS APPEAL NO.209 OF 2013

DATE: 08.06.2026

Between:

J. Srisailam Reddy, s/o. J.Yella Reddy,
r/o.2-27, Chempapet, Hyderabad, and another.

.... Appellants

and

K. Srisailam, S/o.K.Mallesh,
R/o. H.No.23-5-1004/1, Laldarwaza,
Hyderabad and others

.... Respondents

JUDGMENT:

The present appeal has been filed by the appellants/
petitioners challenging the judgment and decree in Arbitration
O.P.No.1094 of 2009 on the file of I Additional District Judge,
Ranga Reddy District at L.B.Nagar, Hyderabad, dated 03.10.2012.

2. For brevity and better understanding of the case, the parties
shall be referred to as arrayed before the learned I Additional
District Judge, Ranga Reddy District.

3. The brief facts of the case are that, the petitioners and the
respondents are the partners of one partnership firm i.e.,
M/s.Vishnu Rice Mill, which is duly constituted as per the

partnership deed, dated 19.01.1985. Originally, the said partnership firm was constituted with the respondent No.1 herein along with one Mr. Chandraiah, and the petitioners. Their main intention and course of business was to construct and run a rice mill in the land to an extent of Ac.1.00 guntas situated at Kharmanghat village, Saroornagar Mandal, belonging to the petitioners. It was agreed by the said partnership deed that the petitioner shall invest the land of Ac.1.00 gts., at Karmanghat village, Saroornagar Mandal, Hyderabad, and the other partners have to contribute an amount of ₹ 2,50,000/- for construction of the rice mill, and if there are any excess of amounts to be incurred, the amounts have to be borrowed from the banks and other financial institutions. Further, subsequently as one of the partners, Mr. P.Chandraiah, had intended to retire from the said partnership firm, the said partnership firm was reconstituted and in his place, the respondent Nos.2 and 3 were made partners and though the partnership firm was formed to carry on business of the rice mill, however, owing to several factors, the partners could not run the said business. Therefore, the same was leased out and rentals were

being distributed among the partners in the profit sharing ratio in pursuance of the said partnership deed.

4. It is the case of the respondent No.1 that as the petitioners were not cooperating and developed clandestine attitude and were not inclined to run the business in a proper manner, the respondents were constrained to get the matter settled and accordingly, issued a notice on 18.01.2003 calling upon the petitioners to settle the accounts and assets of the firm to be distributed, and the petitioners gave a reply, dated 07.02.2003, in which the allegations made by the respondent Nos.1 to 4 were denied, however agreed for referring the matter to arbitration and suggested the name of President of Hyderabad and Ranga Reddy District Rice Mills Association as an Arbitrator and however, subsequently the matter did not move forward though there were certain persuasions through the mediators. Therefore, the respondents issued another notice, dated 29.08.2005, seeking settlement of the disputes and also sought for concurrence of the names indicated in the notice for appointing one among them as an arbitrator for adjudication of the disputes and the petitioners though gave a reply dated 14.09.2005 and denied specific claim of

the respondents herein for settlement of accounts and distribution of the firm assets, and denied such other contentions. As there was arbitration clause in the said partnership deed, the respondent Nos.1 to 3 herein have filed an Arbitration Application No.7 of 2006 before this Court, and the learned single Judge of this Court, after hearing both sides in pursuance of the application filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short, the Act, 1996), *vide* order dated 26.11.2006 has appointed an independent arbitrator to adjudicate the claims of both parties, and to conduct an inquiry and pass an appropriate award.

5. The learned arbitrator, after following the due procedure as contemplated under the Act 1996, has issued notices to the petitioners and all other concerned, and after following the due procedure, has passed Arbitration Award *vide* A.A.No.7 of 2005, dated 17.09.2009, by granting the relief as prayed by the respondent Nos.1 to 3. The said award was challenged before the learned I Additional District Judge, Ranga Reddy District at L.B.Nagar under Section 34 of the Act, 1996, in O.P.No.1094 of 2009, and the learned I Additional District Judge, Ranga Reddy District at L.B.Nagar, after conducting a proper inquiry and

hearing, was pleased to dismiss the said O.P., *vide* judgment and decree, dated 03.10.2012, and this judgment and decree is now challenged before this Court under Order 43 Rule 1 CPC read with 37 of the Act, 1996.

6. The main contention of the appellants/petitioners before this Court is; that previously also the respondents have approached the President, Ranga Reddy District Millers Association and sought for arbitration over their dispute and that the said dispute was resolved by the learned Ranga Reddy District Rice Millers Association *vide* resolution, dated 29.09.1998 (Ex.R8), and it is primarily contented by the learned Senior Counsel Sri P.Vasudeva Reddy, appearing for the learned counsel for appellants/petitioners on record, that once the adjudication process is already done by an independent arbitrator, the question of second arbitration under Section 11(6) of the Act before this Court is not maintainable. The learned Senior Counsel would contend that the earlier award passed *vide* Ex.R8 operates as *res judicata*. Learned Senior Counsel places reliance to show that the second arbitration is not permissible by citing a judgment in the case of **M/s.Tantia**

Constructions Limited vs. Union of India¹. It is the contention of the learned Senior Counsel that once the arbitration resolution was already passed, the approach before this Court for appointing an arbitrator and the determination of the same is not tenable by a second arbitrator. It is contended that though a specific plea is raised before the learned arbitrator, the said plea was negated by the learned arbitrator, and the learned arbitrator has conducted an enquiry and passed an award and the said award was challenged before the Civil Court under Section 34 of the Act, and the same was dismissed without a proper appreciation of the facts and findings are erroneous and order passed in Arbitration O.P.No.1094 of 2009, dated 03.10.2012 is liable to be set aside.

7. The second contention urged by the learned Senior Counsel is that, the entire claim by the respondent Nos.1 to 3 is barred by limitation and particularly, Section 137 of the Act, 1996, and the arbitration application is filed much after the cause of action in the year 1998, when the respondents approached the President, Rice Owners Millers Association. It is contended that it is settled law under Section 137 of the Limitation Act, which provides three

¹ 2022 Supreme (SC) 1550

years for filing an application for adjudication of the arbitration dispute, and more so, when the cause of action started in the year 1998 *vide* Ex.R7 i.e., approach made to the President, Ranga Reddy District Rice Millers Association and as the application is filed almost around seven years thereafter, the same is not maintainable. The learned Senior Counsel places reliance in the case of **B and T AG v. Ministry of Defence**², and contends that on this ground also, the arbitration proceedings has to be set aside on the point of limitation since the application under Section 11(6) of the Act, 1996 is taken recourse after the stipulated period of limitation.

8. The third and final contention, where the learned Senior Counsel would harp upon is perversity of findings, contending that learned trial Court Judge under Section 34 of the Act, and also the Arbitrator have not adjudicated the evidence in a proper perspective. It is contended that though there was no capital investment made by the respondent Nos.1 to 3, the sole arbitrator along with the learned Civil Court though came to a conclusion that nothing has been contributed by the respondent Nos.1 to 3

² 2024 (5) SCC 358

herein, have allowed the claim, thus, it is contended that both the Courts have not appreciated the fact and as such, their findings are perverse and untenable. The learned Senior Counsel placing reliance in the case of **Delhi Metro Rail Corporation Limited vs. Delhi Airport Metro Expresses Private Limited**³ would contend that in view of the perversity, this Court can interfere into the decision of the sole arbitrator along with the learned trial Court Judge, and set aside the findings. The learned Senior Counsel would further contend that both Courts have not appreciated the very cardinal principle of law and though the interference of this Court is limited, since both the judgments of the Civil Court and the award passed by the sole arbitrator are patently illegal and this Court can exercise its power under Section 37 of the Act, 1996. The learned Senior Counsel contends that on all counts, the judgments of the Civil Court and the award are liable to be set aside as perverse and illegal.

9. Though the primary contents are three folds, the learned Senior Counsel would contend that certain amounts are paid during the pendency of the present appeal before this Court,

³ 2024 (6) SCC 357

which are shown in Memo, dated 02.03.2026, and pray the same may also be taken into consideration while deciding the Appeal.

10. Learned counsel Sri K.Prabhakar appearing for the respondent Nos.1 to 3, 5 to 8/applicants would contend that the scope of the intervention of this Court with a well-considered judgments passed by the learned trial Court Judge along with the sole arbitrator do not call for any interference by this Court. Learned counsel would contend that the three contentions put-forth by the learned Senior Counsel appearing for the appellants/ respondent Nos.1 to 3 are not valid, inasmuch as the maintainability of the second arbitration is not true and correct, in fact, though an application was made before the District Rice Millers Association for settlement, no proceedings have been taken place before the said Association, and though the resolution vide Ex.R8 is said to have been made, but it is not an arbitration and no notices are issued to the respondents and in fact, no procedure has been followed and no evidence has been let-out either by the petitioners or respondent Nos.1 to 3 herein. Further, the so-called President who is the author of the resolution is not examined before the learned Arbitrator. Further, the basis for such

arbitration proceedings along with documents filed in the arbitration for passing resolution *vide* Ex.R8, dated 29.09.1998, is not elucidated in the resolution and as such, the said resolution is fabricated and invented and cannot be relied upon.

11. Further, it is contended that in that view of the matter, such proceedings are not to be treated as arbitration proceedings and such resolution is not binding precedent so as to disentitle the respondent Nos.1 to 3 herein from invoking the arbitration clause by approaching this Court under Section 11(6) of the Act, 1996.

12. The learned counsel would also contend that in fact, notices were exchanged and in view of the special clause so as to refer a dispute to the arbitrator, and a notice dated 29.08.2005 was issued by naming the arbitrators, however, a reply was issued *vide* Ex.C6 by denying the claim of the respondent Nos.1 to 3/applicants. Therefore, an application under Section 11(6) of the Act was filed before this Court, and as such, the plea of limitation is to be construed from the date of receipt of the copy of the legal notice to refer the matter to arbitration. Further, so as to dispel the third contention that perversity of findings as raised by learned Senior

Counsel for the appellants/petitioners, the learned counsel for the respondent Nos.1 to 3 would contend that in fact, both the learned arbitrator as well as the learned Civil Judge have categorically held that there were contributions on both the sides and therefore, the question of any perversity of findings does not arise and that there is no patent illegality in the orders passed by the sole arbitrator along with the learned Civil Court Judge under Section 34 of the Act, and therefore, it is contended that the scope of the Appeal under Section 37 of the Act by this Court is very limited, and the petitioners have not made any grounds for interference of this Court with a well reasoned orders of both the Arbitrator and the Civil Court.

13. The learned counsel for the respondents has placed reliance on the following decisions:

- 1) **ONGC vs Saw pipes**⁴
- 2) **Hindustan Corporation Limited v. Indwell Construction Limited and another**⁵,
- 3) **Consolidated Construction Consortium Limited v. Software Technology Parks of India**⁶
4. **Punjab State Civil Supplies Corporation Limited and another v. M/s. Sanman Rice Mills and another**⁷

⁴ 2003 (5) SCC 705

⁵ 2010 (2) ALD 429 (DB)

⁶ AIR 2025 SC 2411

5. **Ravindra Kumar Gupta and Company v. Union of India**^{8'}

6. **Sarath Kumar Paul v. Sudhirr Kumar Paul**⁹;

7. **Commissioner of Income Tax, Madhya Pradesh v. Dewas Cine Corporation**¹⁰

8. **Chandrakant Manilal Shah v CIT**¹¹

9. **Shivaraj Reddy and Brothers, Hyderabad and another v. S.Raghu Raj Reddy and others**¹²

10. **A.V.Papayya Sastry v. Government of Andhra Pradesh**¹³

14. Learned counsel would contend that the scope of this Court and the learned Civil Court under the Act in adjudicating proceedings of the award passed by the sole arbitrator is very limited and it is settled law that even when two views are possible, this Court along with the learned trial Court Judge under Sections 34 and 37 of the Act, 1996, cannot substitute any view to that of the sole arbitrator, and the sole arbitrator has decided all the factual issues in proper perspective and contended that this Court along with the learned trial Court Judge cannot decide as if it is a appeal

⁷ 2024 SC 4856

⁸ 2010 (1) SCC 409

⁹ 1960 Cal 231

¹⁰ AIR 1968 SC 676

¹¹ (1991) 192 ITR 8 (SC)

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¹² 2002 Suppl. (1) ALD 19

¹³ (2007) 4 SCC 221

arising out of the Civil Procedure Code, and that the very purport of the Act, 1996 is speedy disposal, and except in patent illegality, the scope of interference by this Court is unwarranted, and the learned counsel would contend that the appellants/petitioners have not substantiated any grievances for interference of this Court, and that the appeal is devoid of merits and the learned counsel would also accept that certain amounts are paid during the pendency of this Appeal, and contends that thus the Appeal lacks merits and is liable to be dismissed.

15. Having heard learned Senior Counsel for the appellants/petitioners Sri N.Vasudeva Reddy, and learned counsel Mr. K.Prabhakar for respondents/applicants, and having given earnest consideration to their submissions, perused the record.

16. Having heard both the counsel, the following issues fall for consideration in the present Appeal:

- 1) Whether the resolution vide Ex.R8 passed by the President of the Ranga Reddy District Association amounts to arbitration proceedings, if so, what is its effect?
- 2) Whether the application under Section 11(6) of the Act is barred by limitation ?

- 3) Whether the findings arrived by the learned Arbitrator along with Civil Court under Section 34 of the Act are valid and tenable ?

17. Evidently, the entire dispute arose between the parties is in respect of a business conducted on the name and style of 'Vishnu Rice Mill' and that an extent of Ac.1.00 guntas has been invested as capital by the appellants/petitioners as stock-in-trade and other partners have to contribute an amount of Rs.2,50,000/- as capital, and any amount excess to that shall be borrowed from the banks or financial institutions. It is undisputed fact that the partnership is at will and that the said extent of land of Ac.1.00 guntas, situated at Karmanghat, Saroornagar Mandal, has been put in a stock-in-trade by the appellants/petitioners and admittedly, the construction of the rice mill was over in the year 1986, but due to paucity of funds, it was not operated by the respective partners, and that for several years it was given on lease, and the lease was being distributed among the partners in their respective ratios of entitlement.

18. The important terms of the deed of partnership under Ex.C1 for better understanding are extracted hereunder:

“The petitioners herein have agreed to convert the above 1 acre of land in Sy.No.145 as the property of the firm which will be the asset of the firm being valued at Rs.2,50,000/- as the capital investment of the petitioners herein.

The R1 and P.Chandraiah will contribute to the capital to the extent of Rs.2,50,000/-. If any further capital is required over and above the said capital, it shall be borrowed from banks, financial institutions or private parties and interest payable on the same shall be debited to profit and loss account of the firm. The loans borrowed will be responsibility of the firm and that partner No.3 P.Chandraiah shall be the managing partner of the firm.

The profit and loss account of the firm shall be borne by the partners @ 25% each. The books of accounts of the firm shall be closed to profit and loss every year by 31st March and for the first time on 31.03.1985. The partners P.Chandraiah will be the incharge of account and the books will be made available to the other partners whenever they required.

The firm shall not be dissolved by death or retirement of any one of the partners. Every partner is entitled to dissolve the firm in the event of the other committing breach of conditions herein cavinatted as per the law.

Lastly, that in case of dispute among the partners, the matter shall be referred to arbitration under the provisions of the Indian Arbitration Act then in force. That all the provisions of the Indian Partnership Act other than those which have been specifically stipulated in the terms here of would apply to this partnership”.

19. Evidently, the appeal arises out of the proceedings emanating under the Arbitration and Conciliation Act, 1996, the scope of interference under Section 37 of the Act, is only on the following grounds:

1) Refusal to refer parties to arbitration under Section 8 of the Act, 1996.

2) Granting or refusing interim measures under Section 9 of the Act.

3) Setting aside or refusing to set aside an arbitral award under Section 34 of the Act 1996, and that High Court does not act as a regular first Appellate Court by determining factual matrix of the case, and it is settled law, all that this Court cannot re-appreciate evidence, like a civil appeal and cannot substitute its own interpretation merely because another view is possible and this Court can only interfere on limited statutory grounds as held by the Hon'ble Supreme Court in the case of **S.SANGYONG Engineering vs. NHAI**¹⁴ and **MMTC Limited v. Vedanta Limited**¹⁵. The Hon'ble Supreme Court held that Courts cannot correct errors of fact, and interference is permissible only if award

¹⁴ 2019(15) SCC 131

¹⁵ 2019 (4) SCC 163

is patently illegal, against fundamental policy of Indian law, and shocking to conscience of public policy and at the cost of repetition, the Appellate Court cannot undertake an independent assessment on merits and that the Hon'ble Supreme Court in the case of **UHL Power Company Limited v. State of Himachal Pradesh**¹⁶ held that arbitrator is final judge of evidence and patent illegality would only come if award ignores vital evidence, decision is perverse, contract terms are rewritten and findings are impossible in law.

20. Thus, in the background of the above judicial and settled principles, this Court intends to consider the pleas raised by the appellants/ petitioners.

21. The first and foremost ground raised by the learned Senior Counsel that, the respondent Nos.1 to 3 have already approached the District Rice Millers Association way-back in the year 1998 for very same grievance, and the said Rice Millers Association has already resolved the said issue vide Exs.R7 & R8 and held that the appellants/petitioners are only entitled for the rice mill, and therefore the second arbitration is impermissible.

¹⁶ 2022 (4) SCC 116

22. On a perusal of Exs.R7 & R8, dated 20.06.1998 along with the resolution, dated 29.09.1998, wherein though the respondents/applicants have approached the said Rice Millers Association, Malakpet, Hyderabad, and sought for indulgence to settle the dispute, however, neither any evidence was adduced before the Rice Millers Association Court nor any documents were marked.

23. The respondents' seriously dispute the very conducting of the proceedings by the said Presidents Rice Millers Association. Admittedly, neither the said President Rice Millers Association is examined before the learned Arbitrator nor any notices which alleged to be issued to the respondents, are filed and marked. Further, Section 61 of the Evidence Act, 1872, provides mere production of the document does not prove its execution, contentions and proof should be proved by examining the author of the document. The Hon'ble Supreme in the case of **Tarajee Khomchand v. Yellamarti Sathyam**¹⁷ has fortified the said principle along with **Life Insurance Corporation of India and another v. Ram Pal Singh Bisen**¹⁸. Thus, the petitioners have not proved that the proceedings have been drawn by following the

¹⁷ (1971) 1 SCC 9

¹⁸ (2010) 4 SCC 491

procedure under the Act to hold that the resolution Ex.R8 to be arbitral award and thus, in the considered view of this Court, the said resolution is not amply proved to be genuine to hold or as an award much less it does not operate as *res judicata* so to disentitle the respondents from approaching this Court under Section 11(6) of the Act. This point is answered against the appellants/petitioners and in favour of the respondents

24. Insofar as limitation aspect, the learned Senior Counsel for petitioners placing an reliance on the requisition made by the respondents on 26.09.1998 *vide* Ex.R7 and as the application is not filed before three years from the said date before this Court under Section 11(6) of the Act, under Section 43 of the Partnership Act, and the Article 137 of the Limitation Act 1963, contends that the reference of the dispute to be determined by the learned arbitrator is barred by limitation. A close scrutiny of the legal notices exchanged in between the parties i.e., a legal notice issued by the respondent Nos.1 to 3, dated 18.01.2003, calling upon the appellants/petitioners to settle the account by dissolution of the firm was issued and the petitioners have replied on 07.02.2003, by denying all the averments and stated that they are also interested

to refer the same to an arbitrator by saying that “my client is ready to refer the matter to the arbitrator and the matter may be referred to the President of Hyderabad and Ranga Reddy Rice Millers Association”, and further nothing was fruitfully resolved between the parties for appointing an arbitrator of their choice. The respondents issued another notice dated 29.08.2005 (Ex.C5) calling the petitioners to give their consent by settling the dispute by specifying the arbitrator names and it was replied by the petitioners on 14.09.2005 *vide* Ex.C6 once again denying the averments.

25. However, since it was not agreed upon, an application was filed before this Court under Section 11(6) of the Act, 1996 in January, 2005, and this Court *vide* orders dated 26.11.2006 has appointed a sole arbitrator. It is settled law that under Section 137 of the Act, the limitation would be starting from refusal by the party after 30 days of the notice seeking for arbitration and since the said notice was issued, calling upon to refer the matter to an arbitrator *vide* Ex.C5, dated 29.08.2005, which was received by the appellants/petitioners on 02.09.2005, more so even if the prior notice issued by the respondents on 18.01.2003, the petitioners

have responded on 07.02.2003 even from the said date the application is well within three years, and as such, in the considered view of this Court, the application is filed before this Court within a period of three years and as such, the contention of the learned Senior Counsel for the appellants/petitioners that the proceedings are barred by limitation is misconceived, and that the said ground of the petitioner is also negated. More so, the said Rice Mill was given on lease from 1986-87 to M/s.Gayathri Rice Mill, 1987-90 to M/s.Rajitha Rice Mill, 1992-94 to Vinayaka Rice Mill and 1996 to 2000 to Vanitha Rani Rice Mill *vide* Exs.C30 to C32.

26. Insofar as the third ground argued by the learned Senior Counsel that the sole arbitrator has not appreciated the evidence in a proper perspective and that the said findings are patently illegal, cannot hold water, and a close scrutiny of the findings, inasmuch as the sole arbitrator has taken all the grounds raised by the appellants/petitioners before him, and has adjudicated each and every factual issues raised by them and that was also tested before the learned I Additional District Judge, Ranga Reddy, L.B.Nagar in Arbitration O.P.No.1094 of 2009. The learned Civil Court after hearing on either sides and after considering all the contentions of

the appellants/petitioners has negated the contentions of the appellants/petitioners, the very ground of challenge made by the petitioners that the respondents have not contributed any amount stands negated in view of Exs.C29 and C8 and the accounts are settled when one of the partners Mr. P.Chandraiah retired from the firm and Ex.C29 clearly show that the accounts were settled, and as per Ex.C29, the respondent No.1 has invested ₹ 1,35,819/-. The learned arbitrator and the Civil Court have concluded that the respondent No.1 has invested his share, and with such categorical findings, the learned Civil Court dismissed the said O.P. Now, the very same grounds are urged before this Court. In the considered opinion of this Court, there is no perversity of findings by sole arbitrator and the learned civil Court under Section 34 of the Act. The appellants/petitioners have not made any grounds for interference of this Court in the well-considered findings of the sole arbitrator along with the learned trial Court Judge. Further, it is pertinent to note Section 15¹⁹ of the Partnership Act, 1932, any property held by the firm shall be held and used by the partners jointly and all the partners shall be

¹⁹ **S.15. Application of the property of the firm.**—Subject to contract between the partners, the property of the firm shall be held and used by the partners exclusively for the purposes of the business.

entitled to the said property as per their entitlement, as it becomes stock in trade of the partnership firm. Thus, the appellants/petitioners have not made any substantial grounds for interference of this Court, and on all grounds the appeal lacks merits.

27. So far as the judicial precedents relied upon by the learned Senior Counsel appearing for the appellants/petitioners, though said judgments are stand to their own facts mentioned in the respective cases, but the said judgments do not squarely apply to the facts of the present case, and do not support the contentions of the appellants/petitioners in the ratio settled by a number of judgments of the Hon'ble Supreme Court. In that view of the matter, each and every judgment is not separately dealt with.

28. In the result, the Appeal is devoid of merits and is liable to be dismissed.

29. The learned Senior Counsel also contend that during the pendency of the appeal before this Court, certain amounts are paid vide Memo, dated 02.03.2026. However, since there is no dispute raised by the respondents, the same can be adjusted in the final

adjustments to be sorted out in the proceedings before the competent civil Court.

30. In the light of the above, the Appeal is devoid of merits and is accordingly dismissed, by affirming the judgment and decree in Arbitration O.P.No.1094 of 2013, dated 03.10.2012 passed by the I Additional District Judge, Ranga Reddy District at L.B.Nagar. There shall be no order as to costs.

Pending miscellaneous petitions if any shall stand closed.

SUDDALA CHALAPATHI RAO, J

Date: 08.06.2026

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