

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
AND
HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

C.R.P.Nos.983 and 1078 of 2022
W.A.No.513 of 2022 and
W.P.No.15612 of 2022

COMMON ORDER: *(Per Hon'ble Sri Justice U. Durga Prasad Rao)*

The genesis of all the above matters owes to order dated 21.12.2021 in W.P.No.13192/2021 passed by learned single Judge.

2. The brief factual matrix of the case is thus:

(a) The petitioners in W.P.No.13192/2021 are claiming to be the President, Vice-President and Treasurer of NRI Academy of Sciences (for short 'NRIAS') registered under the A.P. Societies Registration Act, 2001. The petitioners prayed for writ of mandamus declaring the action of the District Registrar, Vijayawada/2nd respondent in approving the amendment of the list of office bearers of NRIAS society vide proceedings dated 26.06.2021 submitted by unofficial respondents 4 to 10 and at the same time not considering the amendment petition filed by the petitioners on 24.06.2021 and rejecting the same as illegal and

beyond his jurisdiction as per the provisions of A.P. Societies Registration Act, 2001. Obviously there were rival claims among the petitioners and unofficial respondents to have control over the management of NRIAS which runs 1000 bedded hospital and medical and nursing colleges. Respondents opposed the writ petition. Learned single Judge held that the 2nd respondent/District Registrar erred in giving endorsement accepting the document filed by the unofficial respondents and rejecting the document filed by the petitioners since both actions are wrong. Ultimately, learned Judge partly allowed the writ petition and set aside the endorsement given by the Registrar. Learned Judge left the parties to choose their own options and to pursue their legal remedies before a competent Court or arbitrator as the case may be with an observation that the list filed by the both parties shall be kept in the record of the 2nd respondent and they shall be subject to the final decision of a competent Court or arbitrator as the case may be.

(b) Aggrieved by the above judgment, unofficial respondents 4 and 7 filed writ appeal Nos.204/2022 and 234/2022 respectively. The State also filed writ appeal No.253/2022. One Dr.

Savitri Devi Bikkina also filed writ appeal No.149/2022 whereas the 1st petitioner filed writ appeal No.142/2022. All the aforesaid appeals were disposed of by a common judgment dated 22.02.2022 by the division bench of this court as follows:

“7. Accordingly, with the consent of the parties, Sri Justice Devinder Gupta (Retired Chief Justice) is appointed as sole Arbitrator to decide all existing disputes between the parties referable to Section 23 of the Act, 2001. It will remain open for both the parties to agitate all legal and factual aspects of the disputes before the Arbitrator. Learned Senior Counsel would agree that all pending litigations in relation to the subject dispute before any other legal forums/courts shall be withdrawn by the respective parties. Needless to say, depending upon the need and urgency, both parties would be at liberty to approach the Arbitrator for any interim order. We make it clear that the question of law pertaining to interpretation of Section 9 of the Act, 2001 is left open to be decided in appropriate proceedings.

8. In view of appointment of Arbitrator with the consent of learned counsel for the parties, we set-aside the order passed by the learned single Judge and dispose of all the writ appeals as well as the writ petition in the above stated terms.”

(c) Thus the arbitral tribunal was constituted with learned sole arbitrator. The arbitrator sent notices to the concerned parties and scheduled the sitting of arbitral tribunal on 01.04.2022 at

Neethi Bagh Club, New Delhi. Learned arbitrator fixed the date 08.04.2022 for filing the claim statement; the date 29.04.2022 for filing defence and counter claim and the date 30.05.2022 for further proceedings. While so, the claimants therein filed application under Section 17 of Arbitration and Conciliation Act, 1996 seeking interim relief. The order passed by the learned arbitrator is the cause for filing the present matters under consideration now.

(d) It appears the claimants therein sought for urgent orders in the interim petition while the respondents opposed and requested to hear the matter as scheduled on 30.05.2022. Learned arbitrator considered it necessary to issue some interim measures to protect the affairs of the society, inasmuch as, there were serious allegations that the affairs of the society were not being run properly by the respondents who were in control of the affairs of the society. Ultimately, learned arbitrator appointed Sri Mandava Vishnuvardhana Rao, IPS (Retd) as Administrator of NRIAS with immediate effect to look after and manage all the affairs including the financial matters until further orders. He restrained the

respondents from meddling with the affairs of the society including its management or operating the bank accounts of the society and directed that they will be managed, looked after and operated by the administrator.

(e) Aggrieved by the order dated 14.05.2022 appointing Administrator, Dr. Narsaraju Mantena and others filed arbitration appeal Nos.24/2022 and 25/2022 under Section 37 of the Arbitration and Conciliation Act, 1996 in the High Court of Delhi on 17.05.2022. Learned single Judge passed *status-quo* order dated 19.05.2022 and posted the matters to 25.05.2022. On 25.05.2022, *inter alia* it was brought to the notice of the High Court of Delhi that some more respondents have to be impleaded. Hence the Court directed that all the persons who were parties before the learned arbitrator be impleaded as parties by filing an amended memo in which case notice shall be issued to all of them. The Court directed to list the matter on 27.05.2022.

(f) It should be further noted that, in the meanwhile, aggrieved by the order dated 14.05.2022 appointing the administrator by the arbitrator, Dr. Jitendra Prasad Katneni filed

two arbitration appeals i.e., AOP No.2/2022 and 3/2022 in the court of Principal District Judge, Krishna at Machilipatnam and in view of ongoing summer vacation, presented the appeals before learned vacation Judge, Krishna District. In IA No.110/2022 in AOP No.2/2022 and in IA No.108/2022 in AOP No.3/2022, learned vacation Judge while ordering notice to the respondents granted interim stay of operation of the order dated 14.05.2022 passed by the learned arbitrator until further orders.

(g) Aggrieved by the above interim stay orders, Dr. Raghava Rao Polavarapu who is one of the respondents in the above appeals, filed CRP Nos.983/2022 and 1078/2022. In IA No.1/2022 in CRP No.983/2022 a division bench of this Court granted interim suspension of the order dated 23.05.2022 in IA No.108/2022 in AOP No.3/2022.

(h) It should be noted that the revision petitioner Raghava Rao Polavarapu filed Special Leave to appeal (C) No.13362/2022 before Hon'ble Apex Court against the docket order dated 14.07.2022 in CRP No.1078/2022 on the ground that no interim orders were granted by this Court in the said CRP while hearing

the main CRP Nos.983/2022 and 1078/2022. While listing the matter after six weeks, Hon'ble Apex Court passed the following order:

“In the meantime, operation of the order dated 23rd May, 2022 passed by the Vacation Civil Judge-cum-XX A.D.J., VJA, Camp at Nuzvid in IA No.110/2022 in AOP No.2/2022 shall remain stayed. **It is made clear that pendency of these petitions before this Court would not come in the way of the High Court disposing of the Revision Petitions which are being heard by it.** (emphasis supplied)

We are sure that the Administrator will run the College/Hospital smoothly.”

(i) While so, Dr. Narsaraju Mantena who filed arbitration appeal Nos.24/2022 and 25/2022 before the High Court of Delhi, withdrew those two appeals and accordingly the High Court of Delhi passed orders dated 12.07.2022 to the effect that in view of submission of the respondents conceding to the jurisdiction of Andhra Pradesh Courts, liberty was granted to the petitioners to withdraw their petitions with a liberty to file afresh before the jurisdictional Courts in Andhra Pradesh.

(j) That is how the way was paved for hearing CRP Nos.983/2022 and 1078/2022.

(k) So far as W.P.No.15612/2022 is concerned, it is filed by the administrator appointed by the learned arbitrator. His case is that he took charge on 16.05.2022 and intimated to all concerned and sent letters to the banks where the NRIAS is having accounts and informed that he will be the authorized signatory for all the financial transactions of NRIAS. His grievance is that respondent/ICICI bank which operates from the campus of NRI Hospital has 9 accounts of NRIAS and through those accounts, salaries and other payments were being paid on behalf of NRIAS. The administrator issued three cheques but the respondent bank has not cleared them on the instructions of one C.T. Chowdary one of the disputed members of the NRIAS. The writ petitioner prayed that writ of mandamus may be issued directing the respondent to honour the cheques issued by him and also the cheques to be issued in future for carrying out the administration of NRIAS.

(l) Writ appeal No.513 is concerned, it was filed by the Secretary of NRIAS aggrieved by the orders dated 25.05.2022 in

IA No.1/2022 in WP No.15337/2022. It should be noted that the administrator filed W.P No.15337/2022 seeking writ of mandamus declaring the action of the 2nd respondent/SHO, Mangalgiri Rural PS in refusing to receive the complaint and in refusing to grant police protection to him to carry out the administration of the NRIAS as illegal and to direct the respondents to provide necessary protection to ensure smooth functioning of the petitioner. In IA No.1/2022 a learned single Judge of this Court passed order giving liberty to the petitioner to submit complaint before the 2nd respondent, whereupon, the 2nd respondent was directed to consider the same and give interim protection to the 2nd petitioner from individuals obstructing the 2nd petitioner from discharging his functions so as to ensure smooth administration of the NRIAS society. Learned single Judge further observed that it is open to the 2nd petitioner to submit his complaint to the higher authority of the 3rd respondent i.e., the Director General of Police, CISF, Ministry of Home Affairs whereupon the said authority is directed to give protection in accordance with law. The said order is challenged in W.A.No.513/2022.

(m) The above is the matrix of the case relating to the above four cases.

3. Running the risk of pleonasm, we re-produce the relevant portion of the order dated 03.08.2022 of Hon'ble Apex Court below in Petition for Special Leave to Appeal (C) No.13362/2022 to remind all concerned that there is no obstacle for hearing the revision petitions and other allied matters:

“In the meantime, operation of the order dated 23rd May, 2022 passed by the Vacation Civil Judge-cum-XX A.D.J., VJA, Camp at Nuzvid in IA No.110/2022 in AOP No.2/2022 shall remain stayed. It is made clear that pendency of these petitions before this Court would not come in the way of the High Court disposing of the Revision Petitions which are being heard by it.”

4. In that view, we have heard arguments in CRP Nos.983/2022 & 1078/2022, W.P.No.15612/2022 and W.A.No.513/2022. Elaborative arguments were addressed by the learned counsel for both parties. So far as the two revision petitions are concerned, learned counsel for revision petitioners vehemently argued that the learned vacation Judge ought not to have interfered with the order dated 14.05.2022 passed by the learned arbitrator in appointing

administrator, inasmuch as, in the said order learned arbitrator pellucidly stated that it was necessary to issue some interim measures to protect the affairs of the society in view of the serious allegations that the affairs of the society were not being run properly by the respondents who were in control of the affairs of the society and with that avowed purpose, the administrator was appointed. Further, long before arbitration appeals were filed before the vacation Court, the administrator has taken charge of the affairs of NRIAS for the smooth administration of the affairs of 1000 bedded hospital, medical college, nursing college and vast and sprawling campus containing medical and administrative departments. In that view, staying operation of order dated 14.05.2022 of the arbitrator would create chaotic situation and paralyze the medical administration of the NRIAS. It is also argued that if respondents were aggrieved, they could have agitated before the arbitrator for cancellation or modification of interim order. Hence appeals before District Court are not maintainable. It is thus prayed to allow the two CRPs and set aside the impugned orders.

5. Per contra, learned Counsels for respondents while supporting the impugned orders would submit that the order appointing administrator was infested with illegality and non-observation of principles of natural justice, inasmuch as, the said order was hurriedly passed on 14.05.2022 when in the main arbitration proceedings some of the respondents were not even served and served respondents were concerned, time was granted till 24.05.2022 to file counters and the main matter was fixed for hearing on 30.05.2022. They vehemently argued that there was no requirement, much less pressing requirement to appoint the administrator as some of the respondents before the arbitrator were smoothly running the administration of NRIAS. Going by the unproved allegations of the petitioners therein, administrator was appointed without giving time to the respondents to file their counters and oppose the interim petition. It is further argued that aggrieved by the said illegal order, respondents filed two arbitration appeals AOP No.2/2022 and 3/2022 before the vacation Judge, Krishna District and learned vacation Judge having observed that without following the principle of *audi alteram partem*,

learned arbitrator passed the interim order, stayed the order dated 14.05.2022 which is perfectly valid in the eye of law. It is further argued that the said order being only an *ex-parte* ad-interim order, the present petitioners in two CRPs and others can as well appear before the District Court and file their counters and seek for cancellation of the said order. It is argued that since there was no jurisdictional error in the order impugned and they are only ad-interim orders, CRPs are not maintainable. They prayed to dismiss the CRPs.

6. So far as W.P.No.15612/2022 is concerned, Sri Y.V. Ravi Prasad, learned Senior Counsel argued that since the appointment of administrator is under challenge before the vacation Court, the said petition filed by the administrator seeking direction to the respondent bank may be dismissed. So far as W.A.No.513/2022 is concerned, he prayed to allow the appeal and set aside the order in I.A.No.1 of 2022 for the same reason that appeals are pending before the District Court, Krishna. On the other hand, on behalf of administrator, it is prayed to allow the W.P.No.15612/2022 and

dismiss the writ appeal No.513/2022. Both parties cited decisions to buttress their contentions.

7. The point for consideration is whether there are merits in the above matters to allow?

8. **POINT:** We gave our anxious consideration to the above respective arguments. We have narrated the vicissitudes of the history of the matters to project two main aspects – firstly, the parties to the arbitration proceedings and other persons who claim to have some interest therein, though at the inception chose different fora, however, ultimately submitted to the jurisdiction of the Courts in Andhra Pradesh as observed by the Hon'ble High Court of Delhi and secondly, in none of the proceedings pending before us, the appointment of administrator is directly under challenge. Therefore, in our considered view we cannot decide the validity of the appointment of the administrator as per order dated 14.05.2022 of the arbitrator. That aspect is directly under challenge before the District Court, Krishna District. What is impugned in the revision petitions is the ex-parte ad interim order passed by the learned vacation Judge. Admittedly the main appeals

are pending before the District Court, Krishna District. Therefore, the respondents in those appeals can approach the District Court and file counters and get ready in the main matters in view of the urgency involved. In our view, an early decision in AOP Nos.2 and 3 of 2022 pending before the District Court will solve the issue with regard to validity of the appointment of the administrator. Hence in the interest of justice we propose to direct the parties to approach District Court, Krishna District where the aforesaid matters are pending with a direction to the said Court to dispose of two appeals within a time frame. Till those matters are disposed of by the District Court, since the administration of NRIAS shall not be hampered, we find it apposite that the administrator appointed by the arbitrator shall administer the affairs of the NRIAS subject to the outcome of the aforesaid two matters. It is at this stage germane to note that Hon'ble Apex Court vide order dated 03.08.2022 while staying operation of the interim order passed by the vacation civil Judge in I.A.No.110/2022 in AOP No.2/2022 observed "we are sure that the administrator will run the college/hospital smoothly." So also a division bench of this Court

vide order dated 26.05.2022 in CRP No.983/2022 suspended the interim order in IA No.108/2022 in AOP No.3/2022 passed by the vacation Judge. Therefore, the interim orders passed by the vacation Judge are stayed in the above two proceedings, meaning thereby, the appointment of administrator is in vogue. For this reason also it is apposite to allow him to administer NRIAS till disposal of AOP Nos.2 and 3 of 2022 by the District Court, Krishna wherein his appointment is directly under challenge. We also deem it appropriate that the administrator shall be impleaded as a respondent in the aforesaid both AOPs. Hence we direct the District Court, Krishna District to *suo motu* implead the administrator as a party respondent in both the AOPs and afford him an opportunity to file counter and hear him along with the other parties.

9. W.P.No. 15612/2022 is concerned, the same can be allowed partly by directing the respondent / ICICI Bank to honour the cheques issued by the 2nd petitioner/Administrator subject to the result of AOPs before the District Court, Krishna. It is made clear that during the pendency of those two matters, administrator can

file petitions and seek for suitable orders from the District Court concerning to the administration of NRIAS.

10. Writ Appeal No.513/2022 is concerned, the same is filed against the interim orders in IA No.1/2022 in W.P.No.15337/2022 wherein learned single Judge gave liberty to the administrator to approach the respondents 2 and 3 therein and give complaint whereupon the respondents 2 and 3 shall consider the same and give interim protection to him. Since we permitted the administrator to run the administration of NRIAS till disposal of the AOP Nos.2 and 3, such interim protection in our considered view, is essential. Therefore, there is no requirement to interfere with the interim order passed by learned single Judge. The writ appeal thus can be dismissed. However we expect that learned single Judge will dispose of the main writ petition subject to outcome of the AOPs.

11. Accordingly,

- i.** CRP Nos.983/2022 and 1078/2022 are allowed and the interim order dated 23.05.2022 in IA No.110/2022

in AOP No.2/2022 and in IA No.108/2022 in AOP No.3/2022 are set aside with a direction to the District Court, Krishna where the matters are pending to *suo motu* implead the administrator as a party respondent and afford an opportunity to the respondents to file counter and after hearing both parties pass an appropriate order and dispose of the appeals in accordance with law within eight (8) weeks from the date of receipt of a copy of this order. All the parties are directed to cooperate with the District Court, Krishna in this regard. Till disposal of two AOPs, the administrator shall administer the affairs of NRIAS and if necessary file petitions and seek suitable orders from the District Court, Krishna in the matters relating to the administration of NRIAS. The District Court shall pass orders on such applications on merits after affording an opportunity to hear all concerned.

- ii. W.P.No.15612/2022 is partly allowed and respondent/ICICI Bank is directed to honour the

cheques issued by the 2nd petitioner/administrator subject to the result of the AOPs before the District Court, Krishna.

- iii. W.A.No.513/2022 is dismissed with an observation that learned single Judge will dispose of the main W.P No.15337/2022 subject to the outcome of the AOPs. No costs.

As a sequel, interlocutory applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

G. RAMAKRISHNA PRASAD, J

15 .11.2022
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HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
AND
HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

**C.R.P.Nos.983 and 1078 of 2022 and W.A.No.513 of 2022 and
W.P.No.15612 of 2022**

15th November, 2022

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The genesis of all the above matters owes to order dated 21.12.2021 in W.P.No.13192/2021 passed by learned single Judge.

2. The brief factual matrix of the case is thus:

(a) The petitioners in W.P.No.13192/2021 are claiming to be the President, Vice-President and Treasurer of NRI Academy of Sciences (for short 'NRIAS') registered under the A.P. Societies Registration Act, 2001. The petitioners prayed for writ of mandamus declaring the action of the District Registrar, Vijayawada/2nd respondent in approving the amendment of the list of office bearers of NRIAS society vide proceedings dated 26.06.2021 submitted by unofficial respondents 4 to 10 and at the same time not considering the amendment petition filed by the petitioners on 24.06.2021 and rejecting the same as illegal and

beyond his jurisdiction as per the provisions of A.P. Societies Registration Act, 2001. Obviously there were rival claims among the petitioners and unofficial respondents to have control over the management of NRIAS which runs 1000 bedded hospital and medical and nursing colleges. Respondents opposed the writ petition. Learned single Judge held that the 2nd respondent/District Registrar erred in giving endorsement accepting the document filed by the unofficial respondents and rejecting the document filed by the petitioners since both actions are wrong. Ultimately, learned Judge partly allowed the writ petition and set aside the endorsement given by the Registrar. Learned Judge left the parties to choose their own options and to pursue their legal remedies before a competent Court or arbitrator as the case may be with an observation that the list filed by the both parties shall be kept in the record of the 2nd respondent and they shall be subject to the final decision of a competent Court or arbitrator as the case may be.

(b) Aggrieved by the above judgment, unofficial respondents 4 and 7 filed writ appeal Nos.204/2022 and 234/2022 respectively. The State also filed writ appeal No.253/2022. One Dr.

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“7. Accordingly, with the consent of the parties, Sri Justice Devinder Gupta (Retired Chief Justice) is appointed as sole Arbitrator to decide all existing disputes between the parties referable to Section 23 of the Act, 2001. It will remain open for both the parties to agitate all legal and factual aspects of the disputes before the Arbitrator. Learned Senior Counsel would agree that all pending litigations in relation to the subject dispute before any other legal forums/courts shall be withdrawn by the respective parties. Needless to say, depending upon the need and urgency, both parties would be at liberty to approach the Arbitrator for any interim order. We make it clear that the question of law pertaining to interpretation of Section 9 of the Act, 2001 is left open to be decided in appropriate proceedings.

8. In view of appointment of Arbitrator with the consent of learned counsel for the parties, we set-aside the order passed by the learned single Judge and dispose of all the writ appeals as well as the writ petition in the above stated terms.”

(c) Thus the arbitral tribunal was constituted with learned sole arbitrator. The arbitrator sent notices to the concerned parties and scheduled the sitting of arbitral tribunal on 01.04.2022 at

Neethi Bagh Club, New Delhi. Learned arbitrator fixed the date 08.04.2022 for filing the claim statement; the date 29.04.2022 for filing defence and counter claim and the date 30.05.2022 for further proceedings. While so, the claimants therein filed application under Section 17 of Arbitration and Conciliation Act, 1996 seeking interim relief. The order passed by the learned arbitrator is the cause for filing the present matters under consideration now.

(d) It appears the claimants therein sought for urgent orders in the interim petition while the respondents opposed and requested to hear the matter as scheduled on 30.05.2022. Learned arbitrator considered it necessary to issue some interim measures to protect the affairs of the society, inasmuch as, there were serious allegations that the affairs of the society were not being run properly by the respondents who were in control of the affairs of the society. Ultimately, learned arbitrator appointed Sri Mandava Vishnuvardhana Rao, IPS (Retd) as Administrator of NRIAS with immediate effect to look after and manage all the affairs including the financial matters until further orders. He restrained the

respondents from meddling with the affairs of the society including its management or operating the bank accounts of the society and directed that they will be managed, looked after and operated by the administrator.

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(f) It should be further noted that, in the meanwhile, aggrieved by the order dated 14.05.2022 appointing the administrator by the arbitrator, Dr. Jitendra Prasad Katneni filed

two arbitration appeals i.e., AOP No.2/2022 and 3/2022 in the court of Principal District Judge, Krishna at Machilipatnam and in view of ongoing summer vacation, presented the appeals before learned vacation Judge, Krishna District. In IA No.110/2022 in AOP No.2/2022 and in IA No.108/2022 in AOP No.3/2022, learned vacation Judge while ordering notice to the respondents granted interim stay of operation of the order dated 14.05.2022 passed by the learned arbitrator until further orders.

(g) Aggrieved by the above interim stay orders, Dr. Raghava Rao Polavarapu who is one of the respondents in the above appeals, filed CRP Nos.983/2022 and 1078/2022. In IA No.1/2022 in CRP No.983/2022 a division bench of this Court granted interim suspension of the order dated 23.05.2022 in IA No.108/2022 in AOP No.3/2022.

(h) It should be noted that the revision petitioner Raghava Rao Polavarapu filed Special Leave to appeal (C) No.13362/2022 before Hon'ble Apex Court against the docket order dated 14.07.2022 in CRP No.1078/2022 on the ground that no interim orders were granted by this Court in the said CRP while hearing

the main CRP Nos.983/2022 and 1078/2022. While listing the matter after six weeks, Hon'ble Apex Court passed the following order:

“In the meantime, operation of the order dated 23rd May, 2022 passed by the Vacation Civil Judge-cum-XX A.D.J., VJA, Camp at Nuzvid in IA No.110/2022 in AOP No.2/2022 shall remain stayed. **It is made clear that pendency of these petitions before this Court would not come in the way of the High Court disposing of the Revision Petitions which are being heard by it.** (emphasis supplied)

We are sure that the Administrator will run the College/Hospital smoothly.”

(i) While so, Dr. Narsaraju Mantena who filed arbitration appeal Nos.24/2022 and 25/2022 before the High Court of Delhi, withdrew those two appeals and accordingly the High Court of Delhi passed orders dated 12.07.2022 to the effect that in view of submission of the respondents conceding to the jurisdiction of Andhra Pradesh Courts, liberty was granted to the petitioners to withdraw their petitions with a liberty to file afresh before the jurisdictional Courts in Andhra Pradesh.

(j) That is how the way was paved for hearing CRP Nos.983/2022 and 1078/2022.

(k) So far as W.P.No.15612/2022 is concerned, it is filed by the administrator appointed by the learned arbitrator. His case is that he took charge on 16.05.2022 and intimated to all concerned and sent letters to the banks where the NRIAS is having accounts and informed that he will be the authorized signatory for all the financial transactions of NRIAS. His grievance is that respondent/ICICI bank which operates from the campus of NRI Hospital has 9 accounts of NRIAS and through those accounts, salaries and other payments were being paid on behalf of NRIAS. The administrator issued three cheques but the respondent bank has not cleared them on the instructions of one C.T. Chowdary one of the disputed members of the NRIAS. The writ petitioner prayed that writ of mandamus may be issued directing the respondent to honour the cheques issued by him and also the cheques to be issued in future for carrying out the administration of NRIAS.

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(m) The above is the matrix of the case relating to the above four cases.

3. Running the risk of pleonasm, we re-produce the relevant portion of the order dated 03.08.2022 of Hon'ble Apex Court below in Petition for Special Leave to Appeal (C) No.13362/2022 to remind all concerned that there is no obstacle for hearing the revision petitions and other allied matters:

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4. In that view, we have heard arguments in CRP Nos.983/2022 & 1078/2022, W.P.No.15612/2022 and W.A.No.513/2022. Elaborative arguments were addressed by the learned counsel for both parties. So far as the two revision petitions are concerned, learned counsel for revision petitioners vehemently argued that the learned vacation Judge ought not to have interfered with the order dated 14.05.2022 passed by the learned arbitrator in appointing

administrator, inasmuch as, in the said order learned arbitrator pellucidly stated that it was necessary to issue some interim measures to protect the affairs of the society in view of the serious allegations that the affairs of the society were not being run properly by the respondents who were in control of the affairs of the society and with that avowed purpose, the administrator was appointed. Further, long before arbitration appeals were filed before the vacation Court, the administrator has taken charge of the affairs of NRIAS for the smooth administration of the affairs of 1000 bedded hospital, medical college, nursing college and vast and sprawling campus containing medical and administrative departments. In that view, staying operation of order dated 14.05.2022 of the arbitrator would create chaotic situation and paralyze the medical administration of the NRIAS. It is also argued that if respondents were aggrieved, they could have agitated before the arbitrator for cancellation or modification of interim order. Hence appeals before District Court are not maintainable. It is thus prayed to allow the two CRPs and set aside the impugned orders.

5. Per contra, learned Counsels for respondents while supporting the impugned orders would submit that the order appointing administrator was infested with illegality and non-observation of principles of natural justice, inasmuch as, the said order was hurriedly passed on 14.05.2022 when in the main arbitration proceedings some of the respondents were not even served and served respondents were concerned, time was granted till 24.05.2022 to file counters and the main matter was fixed for hearing on 30.05.2022. They vehemently argued that there was no requirement, much less pressing requirement to appoint the administrator as some of the respondents before the arbitrator were smoothly running the administration of NRIAS. Going by the unproved allegations of the petitioners therein, administrator was appointed without giving time to the respondents to file their counters and oppose the interim petition. It is further argued that aggrieved by the said illegal order, respondents filed two arbitration appeals AOP No.2/2022 and 3/2022 before the vacation Judge, Krishna District and learned vacation Judge having observed that without following the principle of *audi alteram partem*,

learned arbitrator passed the interim order, stayed the order dated 14.05.2022 which is perfectly valid in the eye of law. It is further argued that the said order being only an *ex-parte* ad-interim order, the present petitioners in two CRPs and others can as well appear before the District Court and file their counters and seek for cancellation of the said order. It is argued that since there was no jurisdictional error in the order impugned and they are only ad-interim orders, CRPs are not maintainable. They prayed to dismiss the CRPs.

6. So far as W.P.No.15612/2022 is concerned, Sri Y.V. Ravi Prasad, learned Senior Counsel argued that since the appointment of administrator is under challenge before the vacation Court, the said petition filed by the administrator seeking direction to the respondent bank may be dismissed. So far as W.A.No.513/2022 is concerned, he prayed to allow the appeal and set aside the order in I.A.No.1 of 2022 for the same reason that appeals are pending before the District Court, Krishna. On the other hand, on behalf of administrator, it is prayed to allow the W.P.No.15612/2022 and

dismiss the writ appeal No.513/2022. Both parties cited decisions to buttress their contentions.

7. The point for consideration is whether there are merits in the above matters to allow?

8. **POINT:** We gave our anxious consideration to the above respective arguments. We have narrated the vicissitudes of the history of the matters to project two main aspects – firstly, the parties to the arbitration proceedings and other persons who claim to have some interest therein, though at the inception chose different fora, however, ultimately submitted to the jurisdiction of the Courts in Andhra Pradesh as observed by the Hon'ble High Court of Delhi and secondly, in none of the proceedings pending before us, the appointment of administrator is directly under challenge. Therefore, in our considered view we cannot decide the validity of the appointment of the administrator as per order dated 14.05.2022 of the arbitrator. That aspect is directly under challenge before the District Court, Krishna District. What is impugned in the revision petitions is the ex-parte ad interim order passed by the learned vacation Judge. Admittedly the main appeals

are pending before the District Court, Krishna District. Therefore, the respondents in those appeals can approach the District Court and file counters and get ready in the main matters in view of the urgency involved. In our view, an early decision in AOP Nos.2 and 3 of 2022 pending before the District Court will solve the issue with regard to validity of the appointment of the administrator. Hence in the interest of justice we propose to direct the parties to approach District Court, Krishna District where the aforesaid matters are pending with a direction to the said Court to dispose of two appeals within a time frame. Till those matters are disposed of by the District Court, since the administration of NRIAS shall not be hampered, we find it apposite that the administrator appointed by the arbitrator shall administer the affairs of the NRIAS subject to the outcome of the aforesaid two matters. It is at this stage germane to note that Hon'ble Apex Court vide order dated 03.08.2022 while staying operation of the interim order passed by the vacation civil Judge in I.A.No.110/2022 in AOP No.2/2022 observed "we are sure that the administrator will run the college/hospital smoothly." So also a division bench of this Court

vide order dated 26.05.2022 in CRP No.983/2022 suspended the interim order in IA No.108/2022 in AOP No.3/2022 passed by the vacation Judge. Therefore, the interim orders passed by the vacation Judge are stayed in the above two proceedings, meaning thereby, the appointment of administrator is in vogue. For this reason also it is apposite to allow him to administer NRIAS till disposal of AOP Nos.2 and 3 of 2022 by the District Court, Krishna wherein his appointment is directly under challenge. We also deem it appropriate that the administrator shall be impleaded as a respondent in the aforesaid both AOPs. Hence we direct the District Court, Krishna District to *suo motu* implead the administrator as a party respondent in both the AOPs and afford him an opportunity to file counter and hear him along with the other parties.

9. W.P.No. 15612/2022 is concerned, the same can be allowed partly by directing the respondent / ICICI Bank to honour the cheques issued by the 2nd petitioner/Administrator subject to the result of AOPs before the District Court, Krishna. It is made clear that during the pendency of those two matters, administrator can

file petitions and seek for suitable orders from the District Court concerning to the administration of NRIAS.

10. Writ Appeal No.513/2022 is concerned, the same is filed against the interim orders in IA No.1/2022 in W.P.No.15337/2022 wherein learned single Judge gave liberty to the administrator to approach the respondents 2 and 3 therein and give complaint whereupon the respondents 2 and 3 shall consider the same and give interim protection to him. Since we permitted the administrator to run the administration of NRIAS till disposal of the AOP Nos.2 and 3, such interim protection in our considered view, is essential. Therefore, there is no requirement to interfere with the interim order passed by learned single Judge. The writ appeal thus can be dismissed. However we expect that learned single Judge will dispose of the main writ petition subject to outcome of the AOPs.

11. Accordingly,

- i.** CRP Nos.983/2022 and 1078/2022 are allowed and the interim order dated 23.05.2022 in IA No.110/2022

in AOP No.2/2022 and in IA No.108/2022 in AOP No.3/2022 are set aside with a direction to the District Court, Krishna where the matters are pending to *suo motu* implead the administrator as a party respondent and afford an opportunity to the respondents to file counter and after hearing both parties pass an appropriate order and dispose of the appeals in accordance with law within eight (8) weeks from the date of receipt of a copy of this order. All the parties are directed to cooperate with the District Court, Krishna in this regard. Till disposal of two AOPs, the administrator shall administer the affairs of NRIAS and if necessary file petitions and seek suitable orders from the District Court, Krishna in the matters relating to the administration of NRIAS. The District Court shall pass orders on such applications on merits after affording an opportunity to hear all concerned.

- ii. W.P.No.15612/2022 is partly allowed and respondent/ICICI Bank is directed to honour the

cheques issued by the 2nd petitioner/administrator subject to the result of the AOPs before the District Court, Krishna.

- iii. W.A.No.513/2022 is dismissed with an observation that learned single Judge will dispose of the main W.P No.15337/2022 subject to the outcome of the AOPs. No costs.

As a sequel, interlocutory applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

G. RAMAKRISHNA PRASAD, J

15 .11.2022
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HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
AND
HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

**C.R.P.Nos.983 and 1078 of 2022 and W.A.No.513 of 2022 and
W.P.No.15612 of 2022**

15th November, 2022

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