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C.A.No. 5387 OF 1999
ITEM No.105

Court No. 1

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal NO. 5387/1999

K. RAMA MURTHY (DEAD) BY LRS. ...Appellant(s)

VERSUS

A. RAMA SWAMY (DEAD) BY LRS. & ORS.Respondent (s)
(With appl. (s) for directions and with office report)

Date : 27/04/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Appellant (s)Mr. T.V. Ratnam

Mr. T.L.V. Iyer, Sr. Adv.
Mr. Vipin Nair, Adv.
Mr. P.B. Suresh, Adv.
Mr. V.K. Biju, Adv.
for M/s Temple Law Firms, Adv.
(for appellant Nos. 3 to 5)

For Respondent (s)Mr. K.R. Chowdhary, Sr. Adv.
Mr. S. Udaya Kr. Sagar, Adv.
Mr. Bina Madhwan, Adv.
Mr. A. Vinaysagar, Adv.

Mr. T.L.V. Iyer, Sr. Adv.
Mr. Vipin Nair, Adv.
Mr. P.B. Suresh, Adv.
Mr. V.K. Biju, Adv.
for M/s Temple Law Firms, Adv.
(for respondent Nos.13, 14 & 16)

UPON being mentioned by counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order. No orders as to costs.
(RAJESH DHAM)(VIJAY AGGARWAL)
COURT MASTER COURT MASTER

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5387 OF 1999

K. Rama Murthy (Dead) by LRs. ... Appellant

vs.

A. Rama Swamy (Dead) by LRs & Ors. ...Respondents

O R D E R

The appellants filed a suit for dissolution of partnership accounts and appointment of Receiver alleging a partnership between the parties. Defendant Nos. 1 to 11 in the trial court moved an application under Section 34 of the Arbitration Act, 1940 pleading existence of an award and seeking the relief of suit being stayed. The trial court dismissed the application. However, in appeal preferred by the defendant Nos. 1 to 11, the order of the trial court was set aside and the appellate court, i.e., the Division Bench of the High Court, directed the suit to remain stayed under Section 34 of the Arbitration Act, 1940. Feeling aggrieved by the said order of stay, the plaintiffs preferred this appeal.

Today, in the course of hearing, the learned counsel for respondent Nos. 1 to 11 states that he has received instruction from these respondents not to press the application under Section 34 of the Arbitration Act and the respondents are willing to participate in the trial of the suit and have the dispute determined by the civil court. In view of this statement and as prayed, the order of the High

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Court staying the suit is set aside and the application under Section 34 of the Arbitration Act is dismissed as not pressed. The suit shall now be taken up for hearing.

It is stated at the Bar that the defendant Nos. 1 to 11 have not filed any written statement in view of their having raised the plea under Section 34 of the Arbitration Act and in view of the order which is being passed today they may be allowed a reasonable time for filing the written statement. Let such of the defendants who wish to file the written statement do so within a period of four weeks from the date of their appearance in the trial court. The parties through their respective learned counsel are directed to appear before the trial court on 7th June, 2005.

Since the suit is fairly old and is still at its preliminary stage, the trial court shall give priority to the hearing in the suit and shall dispose it of as expeditiously as possible. If any of the parties is desirous of seeking any interim relief in the suit, it is at liberty to make such application to the trial court, which application, if made, shall be heard on its own merits.

The appeal is disposed of accordingly. No orders as to costs.
.....CJI (R.C. LAHOTI)

.....J
(P.K. BALASUBRAMANYAN)

New Delhi;
April 27, 2005.