

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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C.M.A.No.652 of 2010

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JUDGMENT:

This Civil Miscellaneous Appeal under Order 43 Rule 1(j) of the Code of Civil Procedure (for short, 'the Code') is directed against the order dated 4th June, 2010 of the learned Additional Senior Civil Judge, Eluru of West Godavari District passed in E.A.No.273 of 2008 in E.P.No.127 of 2007 in O.S.No.173 of 2006.

2. I have heard the submissions of the learned counsel for both the sides.

3. This appeal is preferred assailing the order in an application made under Order XXI Rule 90 of the Code. When this appeal is filed, the office has taken an objection as to the maintainability of the appeal before this Court as the value of the subject matter, if taken into consideration the appeal ought to be filed before the District Court and not before this Court.

4. The learned counsel now fairly submits that the appeal ought to have been filed before the District Court and seeks permission to withdraw this appeal and institute a fresh appeal before the District Court by invoking the provision under Section 14 and other relevant provisions of the Indian Limitation Act.

5. Recording the said submission, the Civil Miscellaneous Appeal is disposed of as withdrawn giving liberty to the appellant/JDr to file a fresh appeal, if he so chooses, before the District Court and seek necessary reliefs for condonation of delay by invoking provisions of Section 14 and other relevant provisions of Indian Limitation Act. It is needless to mention that if the JDr files any fresh appeal, the Court below

shall deal with the matter on merits and in accordance with the procedure established by law.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

M. SEETHARAMA MURTI, J

16th September, 2015

Note:

* The Registry is directed to return certified copies of the orders of the Court below to the learned counsel for the appellant on proper endorsement and as per procedure.

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THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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16th September 2015

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