HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

C.R.P.No.375 of 2016

ORDER

Heard Sri M.Sesha Talpa Sai, learned counsel for the petitioners and Sri M.Rajamalla Reddy, learned counsel for the respondent and with their consent, the CRP is disposed of at the admission stage.

This CRP is filed aggrieved by the order dated 2.2.2015 in I.A.No.416 of 2013 in O.S.No.132 of 2013 passed by the learned Principal Junior Civil Judge, Khammam, whereby the learned Judge allowed the petition filed by the respondent-defendant under Order 7 Rule 11 (a) & (d) of CPC and rejected the plaint in O.S.No.132 of 2013 filed by the revision petitioners/plaintiffs. Hence the instant CRP.

When the matter came up for admission, learned counsel for the Revision petitioners would fairly submit that the order rejecting the plaint under Order 7 Rule 11 is a deemed decree as per Section 2 (2) of CPC and therefore, the petitioners ought to have filed a regular appeal against the said order, but, by mistake the CRP is filed which is not maintainable and hence the petitioners would take steps to file a regular appeal challenging the order passed in I.A.No.416 of 2013 and prayed the Court to dismiss the CRP as not maintainable and requested to give liberty to the revision

petitioners-plaintiffs to file a regular appeal invoking the aid of Section 14 of the Limitation Act, 1963.

Learned counsel for respondent while expressing no objection for granting liberty to the petitioners to file regular appeal would, however, submit that the discretion may be left to the concerned Court to decide whether petitioners satisfied Section 14 of Limitation Act or not.

In view of the above submissions, the Civil Revision Petition is dismissed as not maintainable and the petitioners-plaintiffs are at liberty to file a regular appeal challenging the validity of the order in I.A.No.416 of 2013 in O.S.No.132 of 2013 rejecting the plaint. In case the petitioners-plaintiffs plead before the appellate Court that their case comes under Section 14 of the Limitation Act, the appellate Court has to consider and pass appropriate orders on merits.

In view of dismissal of CRP, office is directed to return the certified copy of the impugned order in I.A.,No.416 of 2013 in O.S.No.132 of 2013 to the counsel for petitioners under acknowledgment.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE U.DURGA PRASAD RAO

9th September, 2016
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HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते