

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2886 OF 2016

ORDER:

This revision is filed under Article 227 of the Constitution of India challenging the rejection of plaint in view of the alleged existence of arbitration clause in the agreement.

The order under challenge is a decree as defined under Section 2 (d) of the Code of Civil Procedure, 1908 and rejection of the plaint amounts to decree in view of the Full Bench judgment of this Court in **Molugu Ram Reddy v. Mulugu Vittal Reddy**^[1] wherein it is stated as under:

“... On the true construction of sections 2(2), 2(9), 2(14) and Sections 96, 104 and 105 of the Code of Civil Procedure, the conclusion is irresistible that a judgment rejecting a plaint is “decree” and is appealable under Section 96. A miscellaneous appeal against an order rejecting the plaint would not lie. There is a much consensus of judicial opinion that supports this conclusion. A plaintiff, who is aggrieved by rejection of the plaint for any of the reasons as contemplated under Order VII Rule 11(a) to (f), is entitled to file a regular appeal under Section 96, and a miscellaneous appeal under Section 104 read with Order XLIII Rule 1 is barred.”

In view of the above judgment, the present revision is not maintainable and the same is liable to be dismissed.

The Civil Revision Petition is accordingly dismissed. However, the petitioners are given liberty to file an appeal subject to permissibility under law. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this revision shall

stand closed.

M.SATYANARAYANA MURTHY, J

Date:22.08.2016
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[\[1\]](#) 2011 (5) ALD 522