

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.2143 of 2016

ORDER:

This revision, filed under Article 227 of the Constitution of India, challenges the order passed by the learned Principal District Judge, Prakasam District, Ongole in I.A.No.1210/2015 in Appeal Suit of 2015.

2. Heard Sri K.Manmadha Rao, learned counsel for the petitioner.
3. Petitioner herein is the defendant in O.S.No.447/2010 instituted by the respondent herein on the file of the Court of the Principal Senior Civil Judge, Prakasam District, Ongole. The said suit was instituted for specific performance of Contract of Sale.
4. According to the learned counsel for the petitioner, the learned Senior Civil Judge decreed the said suit by granting alternative relief of return of amount. As against the said judgment and decree, defendant/petitioner herein preferred an Appeal Suit before the Court of the Principal District Judge, Prakasam. Along with the said Appeal Suit, petitioner herein also filed I.A.1210/2015 under the provisions of Order 41 Rule 3 (A) of the Code of Civil Procedure seeking condonation of delay of 71 days in preferring the appeal.
5. The learned Judge by way of the impugned order dated 27.11.2015 dismissed the said application on the ground that the value of the subject matter of the suit exceeds 5 lakhs and is about 8 lakhs and according to the provisions of the A.P. Civil Courts Act an appeal lies before the High Court only.
6. The principal grievance of the petitioner in the present revision as submitted by the learned counsel for the petitioner is that the learned Principal District Judge in stead of dismissing the application ought to have ordered for return of the bundle pertaining to the appeal suit.
7. A perusal of the order impugned as observed in the penultimate

paragraph of the impugned order shows that the learned Principal District Judge refused to entertain the application on the ground that the subject matter of the suit exceeds 5 lakhs and appeal lies before the High Court only. It is also evident from the impugned order that the learned District judge refused to entertain the application while declining to condone the delay on the ground of maintainability. The only grievance is that the learned Judge did not order for return of the case bundle. If that being so, this Court is of the considered opinion that ends of justice would be served if the revision is disposed of asking the Court below to return the case bundle pertaining to the appeal suit preferred by the petitioner against the judgment and decree in O.S.447/2010, on the file of the Court of the Principal Senior Civil Judge, Ongole.

8. For the aforesaid reasons, revision is disposed of, requesting the Court below to pass appropriate orders for return of the case bundle pertaining to the appeal suit preferred by the petitioner against the judgment and decree in O.S.447/2010, on the file of the Court of the Principal Senior Civil Judge, Ongole, so as to enable the petitioner to file appeal before the appropriate forum of law. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:21.04.2016
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Dated: 21st April, 2016

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