

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

Writ Appeal No.1471 of 2016

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 39663 of 2016 dated 5.12.2016. Among the grounds on which the writ petition was dismissed is that the petitioner had filed W.P. No. 23943 of 2016 seeking substantially the same relief; the petitioner had also filed a petition to implead the private respondents; having withdrawn that writ petition, the present writ petition was filed; and the petitioner could not file a fresh writ petition substantially on the very same ground with a similar prayer as sought in the earlier writ petition.

A bare reading of the order in W.P. No. 23943 of 2016 dated 2.11.2016 shows that the writ petition was dismissed as withdrawn taking note of the petitioner's letter dated 1.11.2016 without granting him liberty to file a fresh writ petition.

Sri M. Sudershan, learned counsel for the appellant, would draw our attention to the letter addressed by him to the Registrar (Judicial) on 1.11.2016 informing that the appellant was seeking permission to withdraw the writ petition with liberty to file a fresh writ petition with additional information and documents; and that the writ petition be listed under the caption 'for withdrawal'.

While it does appear that the learned counsel for the appellant had, in his letter dated 1.11.2016, sought permission to withdraw the writ petition with liberty to file a writ petition afresh, and the said letter was noted by the learned Single Judge in his order in W.P. No. 23943 of 2016 dated 2.11.2016, the fact remains

that the learned Single Judge, while dismissing W.P. No.23943 of 2016 by his order dated 02-11-2016, had not granted the appellant liberty to file a writ petition afresh.

It is only if the earlier order in W.P. No.23943 of 2016 dated 2.11.2016 is reviewed, and liberty is granted to the appellant to file a writ petition afresh, could the appellant have filed a subsequent writ petition, ie. W.P. No. 39663 of 2016. As the order passed in W.P. No. 23943 of 2016 dated 2.11.2016 continues to remain in force, we find no error in the order of the learned Single Judge in dismissing W.P. No. 39663 of 2016 by order dated 5.12.2016 on the ground that the earlier writ petition, filed substantially on the same grounds, was dismissed as withdrawn.

Sri M.Sudershan, learned counsel for the appellant, would seek liberty to seek review of the order in W.P. No. 23943 of 2016 dated 2.11.2016. The appellant is granted liberty to do so and, in case the learned Single Judge were to review the order in W.P. No.23943 of 2016 dated 2.11.2016, it is open to him thereafter seek review of the order in W.P. No. 39663 of 2016 dated 5.12.2016.

Subject to the observations made hereinabove, we see no reason to interfere with the order under appeal. The writ appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A. SHANKAR NARAYANA, J)

2nd January, 2017
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