

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.2424 OF 2011

ORDER:

This revision petition is filed under Section 115 C.P.C. challenging the order dated 21.06.2011 passed by the Principal District Judge, Khammam returning the appeal filed under Order XLI Rule 1 C.P.C. against the decree and judgment dated 09.02.2011 passed in O.S.No.573 of 2009 by the Principal Junior Civil Judge, Khammam

The suit was decreed for Rs.29,725/- and aggrieved by the said decree and judgment, appeal was filed by the petitioner before the Principal District Judge, Khammam. However, the District Judge raising objection that this Court has no jurisdiction to entertain the appeal, returned the appeal granting (7) days time by exercising power under Order VII Rule 10 C.P.C., but the petitioner instead of complying with the said objection by representing the same before the District Judge, straight away approached this Court by way of this revision when remedy is available before the District Judge. The present revision petition is not maintainable in view of law declared by the Apex Court in **Sadhana Lodha v National Insurance Com. Limited**¹ where the Supreme Court held that when a remedy by way of appeal is available before the Court to the petitioner, filing revision petition under Article 227 of the Constitution of India is not maintainable. In the present case, the District Judge simply returned the appeal raising specific ground that it lacks pecuniary jurisdiction.

¹ 2003(3) SCC 524

When the Court passed such order and granted (7) days time to represent the appeal, the petitioner ought to have complied with the said objection and represented it, but straight away approached this Court without inviting any order on merits regarding the pecuniary jurisdiction and entertainment of appeal by the District Judge. Therefore, the revision petition is not maintainable. However, the petitioner is permitted to represent the appeal after complying with the objection raised by the District Judge, which is under challenged.

In the result, the civil revision petition is dismissed giving liberty to the petitioner to represent the appeal after complying with the objection raised by the District Judge within (7) days from today. Registry is directed to return the main appeal grounds enabling the petitioner to represent it after compliance of the objection within (7) days from today. There shall be no order as to costs.

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

JUSTICE M. SATYANARAYANA MURTHY

27.02.2018
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