

High Court for the State of Telangana

The Hon'ble The Acting Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Sri Justice A.Rajasheker Reddy

W.A. No.392 of 2019

Date: 01-05-2019

Between:

Sriven Marketing
Rep. by the sole proprietor
Venu Akula

...Appellant

and

Union of India
Ministry of Finance
Rep. by its Secretary
Dept. of Revenue
Govt. of India, New Delhi and 3 others

...Respondents

Counsel for the appellant: Mr. R. Sameer Ahmed

**Counsel for the respondents: Mr. K. Lakshman,
Asst. Solicitor General**

The Court made the following:

Judgment: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellant, Sriven Marketing, is aggrieved by the order dated 26-04-2019, passed by the learned Single Judge in IA.No.1 of 2019 in W.P.No.7792 of 2019.

The impugned order reads as under:

“After hearing both sides when this Court granted time to the Solicitor General to file counter while admitting the writ petition, I.A., was directed to be listed after summer vacation. But the party -in- person represented that his I.A. should be dismissed and his prayer in the writ petition cannot be denied.”

The learned counsel for the appellant submits that since the learned Single Judge was not inclined to grant the relief prayed in the IA, the party-in-person had made a request that the IA shall be dismissed “*on merits*”. However, the learned Single Judge has dismissed the IA not “*on merits*”, but, on the request made by the appellant.

Secondly, even if a request had been made to dismiss the IA, but not “*on merits*”, even then, the learned Single Judge was required to give reasons for dismissing the IA. Therefore, the impugned order deserves to be interfered with by this Court.

Heard the learned counsel for the appellant, and perused the impugned order.

If a request was made by a party-in-person that the IA should be dismissed “*on merits*”, and such a request is not reflected in the impugned order, according to a catena of cases decided by the Apex Court, the correct remedy that is available to the appellant is to file a review petition before the concerned Court. For, what transpired in the Court before the learned Single Judge, cannot be discovered by the appellate Court. Therefore, if the appellant is of the opinion that the request made by him that the IA should be dismissed “*on merits*” is not reflected in the impugned order, he is required to file a review petition before the learned Single Judge.

But, if a request is made by the party that an IA be dismissed, and the IA is accordingly dismissed, then clearly it is a consent order. Once the party gives the consent that the IA can be dismissed, the learned Single Judge is not required to go into the merits or demerits of the case. After all, the learned Single Judge is merely accepting the request made by the party.

For the reasons stated above, this Court does not find any merit in the present appeal. It is, hereby, dismissed.

As a sequel, miscellaneous petitions, pending if any, stand disposed of as infructuous.

(Raghvendra Singh Chauhan, ACJ)

(A.Rajasheker Reddy, J)

Dt: 1st May, 2019
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