

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.44334 OF 2018

ORDER

The prayer of the petitioner society in this case reads as under:

'For the reasons stated in the accompanying affidavit, the petitioner prays this Hon'ble Court may be pleased to issue an appropriate writ, order or other proceedings more particularly one in the writ of mandamus declaring the action of the 2nd respondent/Joint Collector in not dismissing the petitioner's appeal No.D5/3503/2015 in spite of the petitioner's memo dt.01.09.2018 not pressing for the appeal in view of the compromise effected by the petitioner with the respondents in the said appeal and having obtained registered sale deeds for which ended the entire litigation between the appellant and respondents therein as illegal, arbitrary, unjust and against the principles of natural justice and constitutional guarantees and to consequently direct the 2nd respondent / joint collector to dismiss the said appeal as withdrawn and to pass such other and further order or orders as deemed fit and proper in the circumstances of the case.'

It appears that the Joint Collector, Medchal-Malkajgiri District, entertained the appeal filed by the petitioner society in Appeal No.D5/3503/2015. The petitioner society filed Memo dated 01.09.2018 stating that the matter was settled out of Court and that it may be permitted to withdraw the appeal.

The grievance of the petitioner society presently is that the appellate authority is not dismissing the appeal as withdrawn or as not pressed in spite of the said Memo.

As it is the choice of a litigant to either prosecute the case filed by it or withdraw from it or have it dismissed as not pressed, it is not open to the quasi-judicial authority concerned to insist upon the party continuing with the litigation against its will.

The writ petition is accordingly allowed directing the Joint Collector, Medchal-Malkajgiri District, to act upon the Memo dated 01.09.2018 filed by the petitioner society and dismiss the Appeal No.D5/3503/2015 as not pressed in view of the compromise arrived at between the parties thereto. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

28th JANUARY, 2019

Sv

SANJAY KUMAR, J