

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No.187 OF 2012

JUDGMENT:

This Civil Miscellaneous Appeal, under Order XLIII Rule 1 (u) of the Code of Civil Procedure, 1908 (for short, 'C.P.C.'), is filed by the appellant/defendant aggrieved by the judgment and decree, dated 30.12.2011, rendered in A.S.No.34 of 2006 by the XIV Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad, wherein the Court below has set aside the judgment and decree, dated 20.09.2005, rendered in O.S.No.13940 of 2003 by the XIII Junior Civil Judge – cum – I Additional Rent Controller, Hyderabad, and remanded the matter to the trial Court for fresh disposal.

2. Heard learned counsel for the respondent/plaintiff and perused the record.
3. No representation for the appellant/defendant.
4. Learned counsel for the respondent/plaintiff would submit that aggrieved by the judgment and decree, dated 30.12.2011, rendered in A.S.No.34 of 2006 by the XIV Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad, the present Civil Miscellaneous Appeal is filed, which is not maintainable. In the given circumstances, an appeal is required to be filed under Section 100 C.P.C. and ultimately, prayed to dismiss the Civil Miscellaneous Appeal as not maintainable.

5. Admittedly, the present Civil Miscellaneous Appeal is filed aggrieved by the judgment and decree rendered in an Appeal Suit. The appropriate remedy available to the appellant/defendant is an appeal under Section 100 C.P.C. Therefore, the Civil Miscellaneous Appeal is liable to be dismissed as not maintainable.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed as not maintainable.

7. Interim order, dated 25.06.2012, passed by this Court in C.M.A.MP.No.380 of 2012 stands vacated.

Miscellaneous Petitions, if any, pending in this Civil Miscellaneous Appeal shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

January 06, 2020.
MD