



WEB COPY



C.M.P.No.17684 of 2024

in

A.S.No.116 of 2020

S.M.SUBRAMANIAM, J.

The Miscellaneous Petition has been instituted to readmit the appeal, which was dismissed on 20.02.2023.

2. However, this petition filed to readmit the appeal is not entertainable. The appellant has not been held ex-parte in the Appeal Suit.

3. Mr.R.Rajasekar, learned counsel for Mr.A.P.Neelamegavannan, learned counsel, appeared in the Appeal Suit and argued on behalf of the appellant. The case was heard on merits and final order has been passed in A.S.No.116 of 2020.

4. Under Order XVI Rule 17 of the Civil Procedure Code dismissal of Appeal for appellant's default alone is entertainable. In the present case, the appellant was not in default and the appellant appeared before this Court and argued the Appeal Suit on merits. That being the case, the contention of the learned counsel for the petitioner herein that the Appeal Suit is to be



readmitted under Order XVI Rule 17 of the Civil Procedure Code is not entertainable.

5. Mr.A.P.Neelamegavannan, learned counsel for the petitioner herein would submit that his junior Mr.R.Rajasekar, learned counsel appeared before this Court on the date of final hearing.

6. It is immaterial, whether the Appeal Suit has been argued by a junior counsel or by a senior counsel. The fact remains that the Appeal Suit was argued on merits and this Court disposed of the matter on 21.02.2023. Certain internal reasons amongst the lawyers cannot be taken into consideration for the purpose of readmitting the Appeal Suit and therefore, the petitioner has not made out any reason for invoking Order XVI Rule 17 of the Civil Procedure Code. Consequently, the Miscellaneous Petition filed to readmit the Appeal Suit stands dismissed. No costs.

09.08.2024

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