

Pradeep Singhi Vs. Devidas Brahme

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Court : Madhya Pradesh

Decided On : Oct-08-2013

Appellant : Pradeep Singhi

Respondent : Devidas Brahme

Advocate for Pet/Ap. : Shri. N.K.Jain

Judgement :

1 W.P. No.17161 of 2013 8.10.2013 Shri N.K.Jain, counsel for the petitioners. He is heard on the question of admission. Petitioners/ applicants have filed this petition under Article 227 of the Constitution of India being aggrieved by the order dated 16.8.13 passed by the District Judge, Balaghat in MCC No.14/13 whereby their application filed under section 24 of the CPC to transfer the COS No.3-A/13 from the court of Civil Judge Class-I Waraseoni to some competent court of Balaghat, has been dismissed.

2. In the course of the arguments on asking the petitioners counsel that while passing the impugned order, the District Court has finally disposed of the MCC and, in such premises, such order is revisable under section 115 of the C P C then how this petition under Article 227 of the Constitution of India could be entertained. It was also asked that in view of section 24 of the CPC the petitioners have a remedy to file the application again under section 24 of the CPC before this court and in view of availability of such efficacious forum to the petitioners how this petition could be entertained, on which, instead to argue further, petitioners

counsel seeks permission to withdraw this petition with liberty to challenge the impugned order either by way of revision under section 115 of the CPC or to file the appropriate application under section 24 of the CPC.

3. Considering the aforesaid prayer, without expressing any opinion on merits of the matter, the petition is hereby dismissed as withdrawn and not pressed with aforesaid liberty but under such liberty the petitioner shall have right only to file one of the proceedings either under section 115 of the CPC or under section 24 of the CPC.

4. Office is directed to return the certified copy of the impugned order, by retaining its photocopy on record, to the petitioners counsel enabling him to file any of the aforesaid proceedings.

5. Apart this, it is also observed that on filing the appropriate 2 W.P. No.17161 of 2013 application under section 14 of the Limitation Act along with any one of the aforesaid proceedings, the petitioner shall be entitled to get exclusion of the period in limitation to file the same which has been spent by them in prosecuting the present petition.

6. Petition is dismissed as withdrawn and not pressed with aforesaid direction, observation and liberty.

7. In view of aforesaid order, IA No.13484/13 an application for grant of stay does not require further consideration, hence the same is hereby disposed of. C.C as per rules. (U.C.Maheshwari) Judge MKL

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