

The Deputy Chief Engineer Vs. the Land Acquisition Officer and Sri Nirvanappa, Major

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Court : Karnataka

Decided On : Nov-04-2010

Judge : A.N.Venugopala Gowda J.

Appeal No. : MISCELLANEOUS FIRST APPEAL NO.2720/2009 A/W MISC. CVLNO. 16520/2009

Appellant : The Deputy Chief Engineer

Respondent : The Land Acquisition Officer and Sri Nirvanappa, Major

Advocate for Pet/Ap. : Smt. K.S.Anasuya Devi, Adv; M/s. Nyayamitra Adv

Judgement :

1. This appeal was filed questioning an award passed by a Reference Court. The appeal was filed on 13.4.09 with a nominal Court fee. During scrutiny, the Registry noticed the defects in filing of the appeal including the non payment of the prescribed amount of the Court fee vis-a-vis the valuation of the appeal.

2. The appeal having been listed for non-compliance of the office objections, a peremptory order was passed on 2.9.09, emitting the appellant to comply with the office objections within one week by depositing cost of Rs. 1,000/- in Bangalore Mediation Centre. The office objections having not been complied with within the time allowed, the order took effect and as a result, the appeal stood dismissed for

non-prosecution.

3. Seeking setting aside of the said order and to restore the appeal, Misc. Cvl.16520/09 was filed. A perusal of the said misc. application, more particularly, the contents of Para 5 of the affidavit enclosed to the application, prima facie indicated the derogatory statement made herein. Hence, by an order dated 26.10.10, learned counsel for the appellant was directed to furnish by way of an affidavit, the details of the cases which had not been mentioned in Para 5 of the aforesaid affidavit. Learned counsel filed an affidavit. The matter was heard and learned counsel for the appellant took time.

4. Smt. K.S. Anusuya Devi, advocate, has filed an affidavit in which she has made it clear that she had no intention to make any allegations against the Court and that she regrets for the nature of statement made in Para 5 of the affidavit and she has tendered unconditional apology for such statement.

Said affidavit is placed on record.

5. In view of the unconditional apology tendered by the learned counsel, no further proceedings with regard to statement made in Para 5 of the affidavit in support of Misc.Cvl. 16520/09 is called for. The apology stands accepted by the Court.

6. Accepting the cause shown in Misc.Cvl. 16520/09, the order dated 2.9.09 stands recalled and as a result, the appeal stands restored to the file.

7. At this stage, learned counsel for the appellant submits that a memo has been filed seeking withdrawal of the appeal and hence, the appeal itself may be dismissed as withdrawn. In view of the memo and the submission of the learned counsel, the appeal stands disposed of as withdrawn.

Registry is directed to refund the Court fee paid on the appeal memorandum since the appellant has withdrawn the appeal.

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