

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

[3418]

THURSDAY ,THE TWENTY NINTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 1007 OF 2024

Writ Appeal under clause 15 of the Letters Patent Appeal Preferred Against the Order dated. 08-09-2023, in I.A. No.1 of 2023 in WP.No. 26970 of 2019 on the file of the High Court.

Between:

M/s. PH Jewels, Presently at. 5-9-273, CI, Mayur Kushal Complex, Abids, Hyderabad - 500 001. Sole Proprietary Firm, Rep. by its Proprietrix, Radhika Agarwal, W/o. Sanjay Agarwal, Aged about 45 years, R/o. H.No. 36, Aditya Royal Palm Villas, Towlichowki, Hyderabad - 500 008.

...PETITIONER

AND

1. Under Secretary to Government of India, Ministry of Finance, Department of Revenue.
2. Directorate of Revenue Intelligence, Zonal Unit Hyderabad, situated at H.No. 10-2-289/57/1 and 2, Suryavanshi Residency, Shanthinagar, Masab Tank, Hyderabad. Represented by its Additional Director General.
3. M/s. MMTTC Limited., Having its Regional Office situated at 9-1-76 to 77/1/B 3rd floor, S.D. Road, Secunderabad - 500 003. Represented by its Additional Director.

...RESPONDENTS

Counsel for the Appellant: SRI. THAKUR NITENDER SINGH

**Counsel for the Respondents: SRI GADI PRAVEEN KUMAR
Dy. SOLICITOR GEN. OF INDIA**

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL No.1007 of 2024

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. T.Nitender Singh, learned counsel for the appellant.

2. Heard on the question of admission.

3. In this intra court appeal, the appellant has assailed the validity of the order dated 08.09.2023 passed by the learned Single Judge by which the application filed by the appellant, namely I.A.No.1 of 2023 in W.P.No.26970 of 2019, seeking modification of the order dated 16.12.2022 has been rejected.

4. Facts giving rise to filing of this appeal briefly stated are that the appellant had filed a writ petition in which the grievance made is that the respondent No.3, namely M/s. MMTC Limited, has withheld an amount of Rs.6.71 crores along with interest at 8% per annum from 1st April,

2018 to 10.07.2019 and 15% per annum from 11.07.2019 till the date of final remittance towards security deposit on account of custom duty in respect of the gold/bullion transactions of the appellant pending investigation into the transactions of the appellant. In the said writ petition, the appellant filed a memo dated 14.12.2022. The aforesaid memo is extracted below for the facility of reference:

"Date: 14.12.2022

To
The Registrar Judicial
Honorable High Court of Telangana,
Hyderabad

Verify whether there is any
order of the Hon'ble Court
not to withdraw the case

Sir,

Sub: In the matter of Writ Petition No. 26970 of 2019 - Between: M/s PH Jewels Rep.by its Proprietrix Smt. Radhika Agarwal AND Under Secretary to the Government of India, Ministry of Finance, Department of Revenue And Others - Instructions of the petitioner to withdraw the writ petition with leave of Honorable Court - Request for EARLY posting of the Writ Petition in Daily list under caption for withdrawal - Reg.

With regard to above cited subject matter your kind authority is prayed for listing of the W.P.No: 26970 of 2019 under caption for WITHDRAWAL with the leave of the Hon'ble Justice Sri. K.SARATH 35th Court in the daily list on 15.12.2022 or such other EARLY date convenient to the Honorable court and oblige.

Arun Kumar Satyavolu
Advocate"

5. The learned Single Judge therefore by an order dated 16.12.2022 dismissed the writ petition as withdrawn. The order passed by the learned Single Judge reads as under:

"Mr. Arun Kumar Satyavolu, learned counsel for the petitioner, seeks permission of this Court to withdraw the present writ petition. He has also addressed a letter dated 14.12.2022 to the Registrar (Judicial) to the said effect. The said letter is placed on record.

The writ petition is accordingly dismissed as withdrawn. However, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the Writ Petition shall stand closed."

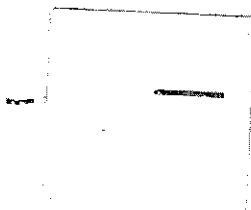
6. Thereafter, the appellant filed an interlocutory application seeking modification of the order dated

16.12.2022 and sought liberty to file a fresh writ petition. The aforesaid interlocutory application has been rejected by the learned Single Judge by an order dated 08.09.2023 on the ground that in the memo dated 14.12.2022, the appellant had not sought leave to file a fresh writ petition. Hence, the appeal.

7. Learned counsel for the appellant submits that in case the appellant is not granted the liberty to file a fresh writ petition, the appellant shall suffer loss.

8. We have heard the submissions of the learned counsel for the petitioner and have perused the record.

9. From a perusal of the memo dated 14.12.2022, it is evident that the appellant has not sought the leave of the Court to file a fresh writ petition. The learned Single Judge, therefore, has rightly rejected the interlocutory application filed by the appellant seeking modification of the order dated 16.12.2022. The order passed by the learned Single Judge does not suffer from any infirmity warranting interference of this Court in this appeal.



10. In the result, the appeal fails and is hereby dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

SD/- K. SHYLESI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI. THAKUR NITENDER SINGH, Advocate [OPUC]
2. One CC to SRI. GADI PRAVEEN KUMAR, Dy. SOLICITOR GEN. OF INDIA [OPUC]
3. Two CD Copies

BM
BN

CHR

HIGH COURT

DATED:29/08/2024

JUDGMENT

WA.No.1007 of 2024



DISMISSING THE WRIT APPEAL WITHOUT COSTS

⑤ CHR
29/9/24