

Party Name : CHAMPALAL LADHAR Vs THE STATE OF TRIPURA & ORS

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. A. Bhaumik, learned counsel appearing for the petitioner as well as Mr. KK Pal, learned counsel appearing for the respondents, Agartala Municipal Corporation. The grievance of the petitioner falls in a short compass. The petitioner filed an appeal under Section 133(3) of the Tripura Municipal Act, 1994 against the order dated 23.05.2016 passed by the Municipal Commissioner, Agartala Municipal Corporation. On 09.12.2016, the petitioner, the appellant in the said appeal urged the Municipal Appellate Tribunal to allow the petitioner withdraw the said appeal. The Municipal Appellate Tribunal without allowing him to withdraw the appeal, dismissed the same on the ground that why the petitioner intends to file a review petition without pursuing the appeal has not been disclosed to the Municipal Appellate Tribunal.

According to this court, this order is entirely perverse. The Municipal Appellate Tribunal had no business to ask for the grounds why the petitioner would or would not prefer a review petition. The issue that had fallen for consideration before the Municipal Appellate Tribunal was simply whether the Municipal Appellate Tribunal would allow the withdrawal or not.

To withdraw an appeal is an inherent right lies with the appellant. Whether further conditional reliefs can be attached or granted with such order, can be the subject matter of consideration and rejection by the Municipal Appellate Tribunal.

As such, the order dated 09.12.2016 is set aside. The appeal filed by the petitioner in the Municipal Appellate Tribunal be deemed to have been withdrawn by him. Further, the said appeal has to be treated as disposed of as withdrawn.

If the petitioner now feels persuaded by the circumstances that he would file a petition for review of the order dated 23.05.2016 before the Municipal Commissioner, he would be entitled to do so.

In the result, this petition is partly allowed.

A copy of this order be supplied to the counsel of the parties in accordance with law.