

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

APPEAL (L) NO.583 OF 2012

**WITH
CIVIL APPLICATION NO.251 OF 2011
WITH
CIVIL APPLICATION NO.272 OF 2011
WITH
CONTEMPT PETITION NO.883 OF 2009
WITH
NOTICE OF MOTION (L) NO.2485 OF 2012
WITH
NOTICE OF MOTION (L) NO.1547 OF 2014
IN
APPEAL (L) NO.583 OF 2012**

Mr. Sunil Dhirajlal Mehta & Anr.

...Appellants

Versus

M/s. Phoenix ARC Pvt. Ltd. & Ors.

...Respondents

...

Mr. Raju Jain i/b. Ms Khushbu Prabhu for the Appellants.

Mr. Mayur Khandeparkar and Mr. M.G. Gawde i/b. Mr. V.B. Kanoria for
Respondent No.4.

Mr. J.P. Sen, Senior Counsel for Official Liquidator.

CORAM : A.S. OKA &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 29th NOVEMBER, 2016.

P. C. :

Heard the learned counsel appearing for the Appellants. He submits that the challenge is to the oral direction allegedly issued by the learned Single Judge on 25th July, 2012. He states that the said oral

direction is reproduced in letter dated 27th July, 2012 (Exhibit A-1) addressed by the Deputy Official Liquidator.

2. Relevant part of the said letter at Exh.A-1 reads thus:-

“I am directed to inform you that in pursuance of the Hon'ble High Court's oral direction dated 25.07.2012, it is decided to call the ex-directors and their advocates for a meeting on 01.08.2012 at 11.30 a.m. before the Official Liquidator to decide the course of action in filing an appeal before the Hon'ble DRT Mumbai.”

3. Taking the statement made in the said letter as correct, the oral direction allegedly issued by the learned Single Judge to the Official Liquidator was to call ex-Directors and their Advocates for a meeting “to decide the course of action in filing an appeal before the DRT Mumbai”.

4. Assuming that such an oral direction was issued by the learned Single Judge, nothing is decided by the said oral direction. It is not a Judgment within the meaning of the Letters Patent. Hence, the Letters Patent Appeal is not maintainable against such order. Accordingly, the Appeal is dismissed.

5. At this stage, we may note that under Sub Clause (f) of paragraph No.9 of the order dated 22nd January, 2013 a direction was issued to the official liquidator to file an appeal before the Appellate Authority. The learned counsel appearing for the Respondents states that accordingly an appeal was filed and the said appeal has already been disposed of.

6. All the pending notice of motions stand disposed of in view of disposal of the appeal.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)