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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 59/2016 & C.M.No.2984/2016 (*directions*)

SOMNATH BHARTI

..... Appellant

Through: Mr.Ram Jethmalani, Sr.Adv. with
Ms.Lata Krishnamurti, Mr.Deepak Khosla,
Mr.Anirudh Anand, Ms.Priyanka Kakkar,
Mr.Chirag Mohan, Mr.P.R.Mala, Advs.

Versus

BHIM SAIN BASSI &ORS

..... Respondents

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

28.01.2016

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1. This appeal under Clause 10 of the Letters Patent has been preferred against the order dated 17.12.2015 whereby the learned Single Judge dismissed Contempt Case No.1003/2015.
2. The said contempt case was filed by the appellant herein under Sections 10, 11 and 12 of the Contempt of Courts Act, 1971 alleging that the respondents herein have violated the order dated 27.10.2014 passed by the learned Metropolitan Magistrate to file a reply to the application of the appellant herein under Section 173(8) of Cr.P.C. The learned Single Judge opined that non-filing of a reply to the application under Section 173(8) of Cr.P.C. does not constitute a civil contempt and accordingly dismissed the contempt case by order dated 17.12.2015.
3. The said order is assailed before us in the present appeal contending *inter alia* that the non-filing of reply by the Police to the application under

Section 173(8) of Cr.P.C. being deliberate and with an intention to save the guilty officials, the learned Single Judge ought not to have dismissed the contempt case.

4. Having heard Sh.Ram Jethmalani, the learned senior counsel appearing for the appellant and having regard to the fact that the contempt case was dismissed by the learned Single Judge *in limine*, we are of the view that the appeal itself is not maintainable.

5. Regarding the appeal under Clause 10 of the Letters Patent against an order in contempt jurisdiction, the law is well settled that an appeal can be maintained only in those cases where the High Court decides an issue or makes any direction relating to the merits of the dispute between the parties in contempt proceedings [vide *Midnapore Peoples Cooperative Bank Ltd. and Others vs. Chunilal Nanda and Others* (2006) 5 SCC 399 and *Tamilnadu Mercantile Bank Shareholders Welfare Association vs. S.C. Sekar and Others* (2009) 2 SCC 784].

6. In the case on hand, we do not find any kind of directions issued by the learned Single Judge.

7. Apparently, the learned Single Judge declined to entertain the contempt case and dismissed the same holding that the alleged violation does not constitute a civil contempt.

8. Therefore, the appeal is not maintainable and the same is accordingly dismissed.

CHIEF JUSTICE

JANUARY 28, 2016/anb

JAYANT NATH, J