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

+ LPA 484/2016

SUMAN CHADHA

..... Appellant

Through: Mr.Vijay Aggarwal with Mr.Mudit
Jain and Mr.Neeraj, Advs.

versus

STATE OF NCT OF DELHI & ANR

..... Respondent

Through: Mr.P.Raychaudhuri, ASC with
Mr.Aamir Aziz, Adv. for GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **31.08.2016**

CM No.31767/2016 (exemption)

Allowed, subject to all just exceptions.

CM No.31766/2016 (delay in filing)

In the facts and circumstances explained in the application, delay in filing the appeal is condoned.

CM stands disposed of.

LPA No.484/2016 & CM No.31765/2016 (stay)

1. This appeal is preferred under Clause 10 of the Letters Patent against the following order 20.05.2016 passed by the learned Single Judge in the Contempt Case (C) No.531/2015:

“1. The pleadings are complete.

2. List for hearing on 3rd August, 2016.

3. Both the parties shall file brief note of submissions not exceeding three pages along with copies of relevant documents/judgments with relevant portions duly highlighted for the convenience of this Court before the next date of hearing.

4. Learned counsel for SFIO submits that the status report is ready and shall be filed in a sealed cover during the course of the day.

5. Learned counsel for the petitioner seeks permission to inspect the said report. Learned counsel for the petitioner is permitted to inspect the report. The seal shall be opened by the Deputy Registrar who will allow the petitioner's counsel to inspect the report and the report shall again be sealed after the inspection is complete. The respondents are not permitted to inspect the report at this stage.

6. The relevant official records shall be kept available at the time of the hearing.”

2. As could be seen, the Contempt Case is still pending and the only ground upon which the order under appeal is assailed is that the learned Single Judge is not justified in declining permission to the appellant herein to inspect the status report submitted by SFIO.

3. The law relating to maintainability of an appeal under Letters Patent against an order passed in contempt proceedings has been categorically explained in *Midnapore Peoples' Coop. Bank Ltd. vs. Chunilal Nanda and Others* **(2006) 5 SCC 399** as under:

“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarized thus:

- I. An appeal under section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.
- II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.
- III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so,

what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

- IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of 'jurisdiction to punish for contempt' and therefore, not appealable under section 19 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under section 19 of the Act, can also encompass the incidental or inextricably connected directions.
- V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).”

4. In the said decision, the question whether the interlocutory orders passed during the pendency of a case, can be treated as a judgment so as to maintain a Letters Patent appeal was also considered and it was held:

“15. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories :

- (i) Orders which finally decide a question or issue in controversy in the main case.
- (ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case.
- (iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case.
- (iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.

(v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.

16. The term 'judgment' occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in section 2(9) CPC and orders enumerated in Order 43 Rule 1 of CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the parties. Interlocutory orders which fall under categories (i) to (iii) above, are, therefore, 'judgments' for the purpose of filing appeals under the Letters Patent. On the other hand, orders falling under categories (iv) and (v) are not 'judgments' for purpose of filing appeals provided under the Letters Patent.”

5. Coming to the present case, the order under appeal under no circumstances can be termed as an order finally and conclusively deciding the rights of the parties with regard to all or any matters in controversy in the main case.

6. In the light of the law laid in *Midnapore Peoples' Coop. Bank Ltd. (supra)*, we therefore hold that the present appeal under Clause 10 of the Letters Patent is not maintainable.

7. The appeal is accordingly dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

AUGUST 31, 2016/pmc