

Sequeira

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

APPEAL NO. 448 OF 2018

In

Review Petition (Company) No. 7 of 2017

in

Company Petition No. 277 of 2011

A l o n g w i t h

APPEAL NO. 409 OF 2018

In

Review Petition (Company) No. 6 of 2017

in

Company Petition No. 128 of 2011

And

NOTICE OF MOTION (Lodging) NO. 1279 OF 2018

And

NOTICE OF MOTION (Lodging) NO. 1278 OF 2018

M/s.Masumi Overseas Private Ltd.

.. Appellant

Vs

The State Trading Corporation of India Ltd.

.. Respondent

Mr.Zal Andhyarujina a/w Ms Revati Desai & Ms.Rup Bhavé i/b Bhavé & Co., for the Appellant, in both Appeals.

Mr.Pradeep Sancheti, Senior Advocate a/w Mr.Darshit Jain i/b S.I.Shah & Co., for the Respondent in both Appeals.

***CORAM : NARESH H. PATIL, C.J. &
N.M.JAMDAR, J.
Date : January 8, 2019.***

P.C. :

The Appellant in both, the Appeal No.448 of 2018 challenges Review Petition No.7 of 2017 and Appeal No.409 of 2018 Review Petition No.6 of 2017, the order passed by the learned Single Judge of this Court dated 2nd July 2018, dismissing the Review Petitions.

2. Learned Senior Advocate Mr.Sancheti, appearing for the Respondent has raised preliminary objection as regards the maintainability of the Appeals under provisions of Order 47 Rule 7 of the Code of Civil Procedure which reads as under -

'R.7.(1) An order of the Court rejecting the application shall not be appealable; but an order granting an application may be objected to at once by an appeal from the order granting the application or in any appeal from the final decree or order passed or made in the suit.

(2) Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and, where it is proved to the satisfaction of the Court that he was prevented

by any sufficient cause from appearing when such application was called on for hearing, the Court shall order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

(3) No order shall be made under sub-rule (2) unless notice of the application has been served on the opposite party'.

3. Nothing contrary has been shown to us on behalf of the Appellant as regards the preliminary objections raised by the other side.

4. We have perused the provisions of Order 47 Rule 7 of the Code of Civil Procedure. We are convinced that the Appeals are not maintainable against the order impugned herein. The Appeals are disposed of as not maintainable.

5. In view of disposal of Appeals, both the Notice of Motion (Lodging) Numbers 1279 of 2018 and 1278 of 2018 are disposed of accordingly.

N.M.JAMDAR, J.

CHIEF JUSTICE