

**HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P. KESHA RAO**

APPEAL SUIT No.171 of 2019

JUDGMENT: (per the Honourable Sri Justice V. Ramasubramanian)

This is an appeal filed by the Union of India and the National Police Academy, questioning the correctness of the ex-parte judgment and decree of a civil Court, directing payment of money to the respondent herein.

Heard Mr. K. Laxman, learned Assistant Solicitor General, for the appellants and Mr. Nikhil, learned counsel for the respondent.

It appears that the appellants were set ex-parte and the decree was passed by the trial Court. Though the appellants filed an application to set aside the ex-parte decree, the same was rejected and the order of rejection was confirmed by this Court in a civil miscellaneous appeal. Therefore, the appellants have come up with the above regular appeal against the judgment and decree of the Court below.

The main ground on which the appellants assail the judgment and decree of the Court below is that the dispute between the parties is clearly a commercial dispute, within the meaning of the expression under Section 2(1)(c) of the Commercial Courts Act, 2015 and that therefore the same could not have been entertained by the normal civil Court. It appears from the decree that the plaint was presented on

25.08.2016. According to the appellants, the Commercial Court was constituted under G.O.Ms.No.32 dated 21.04.2016. It appears that the Commercial Court started functioning from 10.06.2016.

Unfortunately, the appellants were set ex-parte and they did not have an opportunity to raise this claim before the trial Court.

Learned counsel for the respondent submits that he has no objection to the matter being remanded back to the trial Court so that all these issues could be trashed out.

In the light of the said submission, the appeal is allowed. The judgment and decree of the trial Court are set aside and the matter is remanded back to the trial Court. It is open to the appellants to file a written statement raising all the issues. No order as to costs.

Miscellaneous petitions, if any, shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHAHA RAO, J

Date: 18.04.2019.
ES/CCM