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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Judgment: 22nd May, 2019

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LPA 334/2019

CONSORTIUM OF WORLDS WINDOW EXIM PVT LTD & ORS

.....Appellants

Through: Mr. Dhruv Mehta, Senior Advocate
with Mr. Abhishek Puri, Ms. Surbhi
Gupta, Mr. Anant Gautam and Mr.
Yashrth Mishra, Advocates

versus

AXIS BANK LTD & ORS

.....Respondents

Through: Mr. Tushar Mehta, Solicitor General
and Mr. Sandeep Sethi, Senior
Advocate with Mr. Sumesh Dhawan,
Mr. Vaijayant Paliwal and Ms. Charu
Bansal, Advocates for respondent-
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Mr. Mashmat Nabi, Ms. Farah Naaz
and Mr. Syed Mehndi Zaidi,
Advocates for respondent No.8
Mr. S.L. Gupta and Mr. Mithilesh Pal,
Advocates for respondent No.9
Mr. O.P. Gaggar, Advocate for
respondent No.11

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

G.S. SISTANI, J. (ORAL)

CM Appl.22823/2019 (Exemption)

Allowed, subject to all just exceptions.

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1. This matter has been received on transfer.
2. Challenge in this appeal is to an order dated 15th April, 2019 passed by the learned Single Judge of this Court on an application being CM Appl.5938/2019 filed by the appellants/petitioners by which prayer for supply of copies of the documents viz. minutes of the meeting of the Evaluation Committee and other documents detailed in paragraph No.9 of the application, has been rejected. Learned Single Judge has noticed that this application has been pressed at the fag end of the arguments.
3. Mr. Dhruv Mehta, learned senior counsel appearing for the appellants, submits that some of these documents have been referred to in the counter affidavit filed by the respondents and even otherwise, these documents would be necessary at the time of hearing as they would have a direct impact on the final outcome of the matter.
4. Mr. Tushar Mehta, learned Solicitor General of India and Mr. Sandeep Sethi, learned senior counsel, have opposed this appeal on the ground that the order impugned is not an appealable order. Reference is made to paragraphs No.114 to 116 in the case of ***Shah Babulal Khimji v. Jayaben D. Kania***, (1981) 4 SCC 8, which read as under: -

“114. In the course of the trial, the trial Judge may pass a number of orders whereby some of the various steps to be taken by the parties in prosecution of the suit may be of a routine nature while other orders may cause some inconvenience to one party or the other, e.g., an order refusing an adjournment, an order refusing to summon an additional witness or documents, an order refusing to condone delay in filing documents, after the first date of hearing an order of costs to one of the parties for its default or an order exercising discretion in respect of a procedural matter against one party or the other. Such orders are purely interlocutory and cannot constitute judgments because

it will always be open to the aggrieved party to make a grievance of the order passed against the party concerned in the appeal against the final judgment passed by the trial Judge.

115. Thus, in other words every interlocutory order cannot be regarded as a judgment but only those orders would be judgments which decide matters of moment or affect vital and valuable rights of the parties and which work serious injustice to the party concerned. Similarly, orders passed by the trial Judge deciding question of admissibility or relevancy of a document also cannot be treated as judgments because the grievance on this score can be corrected by the appellate court in appeal against the final judgment.

116. We might give another instance of an interlocutory order which amounts to an exercise of discretion and which may yet amount to a judgment within the meaning of the letters patent. Suppose the trial Judge allows the plaintiff to amend his plaint or include a cause of action or a relief as a result of which a vested right of limitation accrued to the defendant is taken away and rendered nugatory. It is manifest that in such cases, although the order passed by the trial Judge is purely discretionary and interlocutory, it causes gross injustice to the defendant who is deprived of a valuable right of defence to the suit. Such an order, therefore, though interlocutory in nature contains the attributes and characteristics of finality and must be treated as a judgment within the meaning of the letters patent. This is what was held by this Court in Shanti Kumar case [(1974) 2 SCC 387 : AIR 1974 SC 1719 : (1975) 1 SCR 550] , as discussed above.”

5. Additionally, it is contended by Mr. Mehta and Mr. Sethi that the matter pertains to encashing of bank guarantee of Rupees hundred crores and that substantial hearing has already taken place and the aim and object of the appellants is to prolong the hearing, which would cause serious prejudice to the rights of the respondents. This is vehemently disputed by Mr. Dhruv Mehta, learned senior counsel appearing the appellants.

6. We have heard the learned Solicitor General and learned senior counsels for the parties and examined the order passed by the learned Single Judge. We find no infirmity in the order. In the concluding part of the impugned order, the learned Single Judge has observed that the minutes of the meeting would be kept handy for the perusal of the Court.

7. Learned Solicitor General submits that the file contains information, some of which would not directly concern or pertain to the appellants. However, the file would be kept handy for perusal of and examination by the Court.

8. At this stage, Mr. Dhruv Mehta submits that he would request the learned Single Judge for inspection of the file. Mr. Tushar Mehta submits that depending on the request so made, the respondents would object to the same, if necessary.

9. With these directions, the appeal is disposed of.

CM APPLS.22822/19 & 22824/2019

The applications also stand dismissed in view of the order passed in the appeal.

Copy of this order be given *dasti* under the signatures of the Court Master.

G.S. SISTANI, J

JYOTI SINGH, J

MAY 22, 2019

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