

ORDER SHEET

APO/156/2020
WITH
CS/97/2014
IA No.GA/1/2020
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

SOUTH EAST CENTRAL RAILWAY AND ANR.
VERSUS
RAHEE GPT JV AND ORS.

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 6th January, 2021.

Appearance:

Mr. S. Chakraborty, Adv.

Mr. Samrat Sen Sr. Adv.

Mr. R.L. Mitra, Adv.

Mr. P. Dhar, Adv.

Mr. Nirmalya Dasgupta, Adv.

Mr. S. Paul Chawdhury, Adv.

The Court: This is an appeal from an order dated 12th March, 2020 allowing amendments to the plaint sought by the plaintiffs and also from an order dated 7th October, 2020 extending the time to carry them out.

This appeal must fail on a preliminary point.

The appeal is within the purview of the Commercial Courts Act, 2015. The proviso to Section 13(1A), inter alia, provides that an appeal lies only from those orders against which appeals are permitted under Order XLIII of the Code of Civil Procedure, as amended by the Commercial Courts Act, 2015 and under Section 37 of the Arbitration and Conciliation Act, 1996.

Section 13 sub-Section 2 makes it plain that nothing in any other law or the Letters Patent of the High Court could justify an appeal, otherwise.

Therefore, Section 13 is a special provision for appeals under the Commercial Courts Act, 2015 to the exclusion of any other provision for appeals provided in any other statute.

Order VI Rule 17 of the Code relating to amendments is not appealable under Order XLIII of the Code.

Hence, this appeal is not maintainable.

We may refer to an unreported Division Bench judgment of this Court delivered on 17th December, 2020 in APO 24 of 2020 (Punjab National Bank versus N.S. Engineering Project Pvt. Ltd. and Ors.) cited by Mr. Sen which declined to entertain an appeal from an order declining extension of time to file the written statement passed by the Commercial Division of this Court, on the aforesaid ground.

In the circumstances dispensing with all formalities this appeal is treated as on the day's list and the same (APO 156 of 2020) is dismissed. The connected stay application (IA No.GA 1 of 2020) is also dismissed.

Needless to mention, we have not gone into the merits of the controversy between the parties.

The department will accept the additional written statement to be filed by the appellant, if it is filed by 15th January, 2021, which is within the stipulated time. Otherwise the appellant will make an appropriate application before the learned trial Judge.

(I. P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)

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