

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

988 COMMERCIAL APPEAL NO.5 OF 2021

**JEEVAN VINAYAK JAHAGIRDAR
VERSUS
AGRICULTURE PRODUCE MARKET COMMITTEE AND ANOTHER**

...

Advocate for Appellant: Mr. Chetan Trimbakrao
Jadhav and Mr. Kishorkumar B. Borde

...

**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE: 20th AUGUST, 2021

PER COURT:

1. On 13.08.2021 after hearing the learned Advocate for the appellant we had kept the matter on 20.08.2021 at the request of Mr. Jadhav to take instructions for withdrawal of the appeal.

2. Today, learned Advocate for the appellant submits that the orders be passed on merits of the matter.

3. The appellant is assailing the order dated 14.07.2021 passed below Exhibit-469 in Commercial Suit No. 1 of 2019. Application Exhibit-469 was filed seeking directions against the defendant to

produce the documents as per the list detailed therein. The same is rejected. Aggrieved thereby the present appeal.

4. The present appeal in our opinion is not maintainable against said interlocutory order. The reference can be had to the Judgment of the Division Bench of the Delhi High Court in case of **HPL (India) Ltd. and others Vs. QRG Enterprises and others** reported in **MANU/DE/0347/2017**, and another Judgment of the Division Bench of the Delhi High Court in case of **Samsuang Leasing Ltd. and others Vs. Samsung Electronics Co. Ltd. and others** reported in **MANU/DE/2107/2017**. The learned Advocate relies on the Judgment of the Division Bench of Delhi High Court in case of **D & H India Ltd. Vs. Superson Schweisstechnik India Ltd. decided on 16.03.2020**. The learned Advocate referring to the said Judgment submitted that the appeal against an interlocutory order would be maintainable and the same would not be restricted to the orders passed under Order 43 Rule 1 of the Code of Civil Procedure, 1908.

5. Upon perusal of the said Judgment referred to by the learned Advocate for the appellant the Court was considering the appeal as against the order passed under the Original Side Rules of the Delhi High Court.

6. It is clear that the impugned order is not appellable under Order 43 Rule 1 of the Code of Civil Procedure, 1908 and in view of the provisions of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 more particularly, Sub-Section 1-A of Section 13 of the said Act. Reference can be had to the Judgment of the Division Bench of Delhi High Court in case of **HPL (India) Ltd. and others Vs. QRG Enterprises and others and Samsuang Leasing Ltd. and others Vs. Samsung Electronics Co. Ltd. and others** (*supra*).

7. In view of that, appeal is dismissed as not tenable. It is made clear that we have not

considered the contentions of the appellant on merits. They are kept open. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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