

APOT/159/2023
With
CS/289/2022
IA No.GA/1/2023

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

POOBONG TEA COMPANY LIMITED

-Versus-

UNITED INDIA INSURANCE
COMPANY LIMITED

BEFORE :
THE HON'BLE JUSTICE I. P. MUKERJI
And
THE HON'BLE JUSTICE BISWAROOP CHOWDHURY
Date : 12th July, 2023

Appearance :
Mr. Subhasish Sengupta, Adv.
Mr. Soumyajit Mishra, Adv.
Mr. Balarko Sen, Adv.
...for the appellant.

Mr. Sabyasachi Chowdhury, Adv.
Mr. S. N. Ganguly, Adv.
Mr. Siddhartha Goswami, Adv.
Mr. Jit Roy, Adv.
...for the respondent.

The Court : There is no necessity for this Court to go into the merits of this appeal i.e., whether the learned single judge, by his judgment and order dated 16th May, 2023 was right in allowing the respondent/defendant to file its written statement.

This is so because the law does not permit any appeal from the impugned judgment and order dated 16th May, 2023. Section 13(1) of the Commercial Courts Act, 2015 makes it quite clear that appeals would lie from judgments, decree or orders specified in that section and from no other decision. Section 13(2) has a *non-obstante* clause. It mandates that irrespective of any other law or Letters Patent of a High Court “no appeal

shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Court.”

The proviso to sub-Section (1A) of Section 13 specifies that appeals would lie from orders passed by a Commercial Division or any Commercial Court that are “specifically enumerated under Order XLIII of the Code of Civil Procedure ... and Section 37 of the Arbitration and Conciliation Act, 1996.”

Order XLIII of the Code of Civil Procedure does not conceptualise any appeal from the impugned judgment and order. Furthermore, the impugned judgment and order does not qualify as a decree so as to become appealable as a judgment and decree under Section 13(1) only which in our opinion is appealable under Section 13(1), besides specified orders in Section 13(1A).

For all these reasons, the appeal (APOT/159/2023) is not maintainable. It is dismissed. All undertakings are discharged. The interim order dated 8th June, 2023 is vacated.

The application for admission of the appeal being IA No.GA/1/2023 is accordingly disposed of.

As affidavits are not invited, allegations if any, contained therein are deemed not to have been admitted.

(I. P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)