

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

101

CACP-1-2022

Date of decision: 10.01.2023

M/s Luxmi Fruit Company

..Appellant

Vs.

Dr. Sumita Mishra IAS and Others

..Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. Ravinder Malik, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J.(ORAL)

Challenge in this appeal is to the order dated 09.11.2022 passed by the learned Single Judge whereby contempt petition preferred by the appellant-petitioner stands disposed of by coming to a conclusion that no contempt is made out, leaving it open to the appellant to avail of its remedy in respect of the order dated 18.10.2022 (Annexure P-9) by way of appropriate proceedings in accordance with law, if so, advised.

2. A preliminary issue was required to be answered by the counsel for the appellant with regard to the maintainability of the present appeal to which learned counsel for the appellant has referred to a judgment passed by the Hon'ble Supreme Court in **Barada Kanta Mishra Vs. Orissa High Court Criminal Appeal No.72 of 1975, decided on 15.09.1975** where the Hon'ble Supreme Court has held that if some finding is returned by the Court in exercise of the jurisdiction under the Contempt of Courts Act, the

same would be appealable under Section 19 of the Contempt of Courts Act, 1971. It has also been said that in case of an interlocutory order pertaining purely to the procedure of the Court, the same would not be maintainable. On the basis of these observations of the Hon'ble Supreme Court learned counsel for the appellant has stated that he has right to press upon the Court that the present appeal would be maintainable.

3. We do not find the observations, as have been made by the Hon'ble Supreme Court to be applicable to the facts and circumstances of the present case as it was held that the appeal under the Contempt of Courts Act would be maintainable where an order or decision or finding on some point is given in exercise of jurisdiction to punish for contempt.

4. The order as has been passed by the writ court, which has led to the filing of the contempt petition, does not determine the aspect with regard to the rate of the plot to be allotted. What has been said in the order was limited to the extent of entitlement and eligibility of the appellant for allotment of the plot on preferential basis under the Haryana State Agriculture Marketing Board (Sale of Immoveable property) Rules 2000.

5. The order which has been passed by the competent authority in pursuance to the order of the writ court pertains to the entitlement of the petitioner for allotment of a plot. The appellant has been granted the benefit of allotment of plot. What has been highlighted by the appellant is that the rate, which is being charged on the plot so allotted, is not as per the initial allotment which was the subject matter of the *lis*.

6. It is not in dispute that the plot has been allotted to the appellant. For the rate, learned Contempt Court has rightly found and has kept it open for determination at the hands of the petitioner in appropriate proceedings, if so, advised.

7. In the light of the above, we do not find the present appeal to be maintainable on the aspect of its being so sustainable as also on merits.

8. The appeal, therefore, stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

January 10, 2023
Poonam Sharma

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No