

MAT 319 of 2024
With
CAN 1 of 2024

Delta Limited
Vs.
Sanat Roy & Ors.

Mr. Soumya Majumdar
Ms. Shikha Kumar Kashyap
Ms. Sneha Singh
... .. for the appellant

Mr. Rananeesh Guha Thakurta
Ms. Senjuti Sengupta
Mr. Sounak Sen
... .. for the respondent nos.1, 2 & 3

Mr. Rohan Raj
... .. for the respondent no.4

Mr. Sabyasachi Chatterjee
Mr. Pintu Karar
Mr. A. Mukherjee
Ms. S. Manna
Mr. S.U. Laskar
Mr. S. Koley
... .. for the respondent nos.5, 6 & 7

Mr. Satyendra Agarwal
Ms. Aparna Banerjee
Mr. Bijoy Bag
Mr. Goutam Malik
... .. for the respondent nos.8,9 & 10

Mr. Rahul Sharma
... .. for the respondent no.11

Mr. Ashoke Kumar Chakraborty, ASGI
Mr. Vipul Kundalia
Mr. Tirtha Pati Acharyya
... .. for the respondent nos.12 & 13

Mr. Dhiraj Trivedi, DSGI
Mr. Arijit Chakrabarti
... .. for the respondent no.14

Mr. Ghanshyam Pandey
... .. for the respondent no.15

1. Heard Shri Soumya Majumdar, learned counsel for the appellant, Shri Rananeesh Guha Thakurta, learned counsel for the respondent nos.1, 2 and 3, Shri Rohan Raj, learned counsel for the respondent no.4, Shri Sabyasachi Chatterjee, learned counsel

for the respondent nos.5, 6 and 7, Shri Satyendra Agarwal, learned counsel for the respondent nos.8, 9 and 10, Shri Rahul Sharma, learned counsel for the respondent no.11, Shri Ashoke Kumar Chakraborty, learned Additional Solicitor General of India for the respondent nos.12 and 13, Shri Dhiraj Trivedi, learned Deputy Solicitor General of India for the respondent no.14 and Shri Ghanshyam Pandey, learned counsel for the respondent no.15.

2. The appellant is a limited company who was respondent no.3 in WPA 19510 of 2023 (Sanatan Naskar Vs. The Regional Provident Fund Commissioner & Ors.).
3. In the said writ petition the learned Single Judge passed an order dated 06.02.2024 and two orders both dated 08.02.2024, wherein the learned Single Judge has observed that fraud had been practiced by the two companies namely, the appellant herein and the respondent no.15 herein and huge amount of provident fund money belonging to retired employees has not been paid. It has been observed by the learned Single Judge that real persons behind the company are to be found out inasmuch as the three persons namely Mr. Jayanta Kumar Hazra, Mr. Dinanath Dubey and Mr. Subrata Kumar Naskar who appeared before the

Court (learned Single Judge) introducing themselves as Directors of the appellant herein, were actually Supervisors of the jute mill. Similarly, two persons, namely Mr. Sujit Kumar Shil and Mr. Amit Shaw who appeared and introduced themselves as Directors of the respondent no.15 herein, were found to be as Finishing Supervisors and as Workers Attendance respectively. The facts as noted by the learned Single Judge in the aforesaid three impugned orders, itself prima facie indicates existence of some component of misrepresentation.

4. During the course of hearing learned Additional Solicitor General of India has raised a preliminary objection as to maintainability of the appeal on the ground of commission of fraud by the appellant herein and respondent no.15 herein and submits that fraud and justice never dwell together. He also submits that the memorandum of appeal discloses that appeal is being filed against certain orders passed in several writ petitions including WPA 19510 of 2023 but the order passed only in WPA 19510 of 2023 has been challenged. He also points out that the affidavit accompanying stay application has been sworn by an unauthorized person and in whose favour there is no authorization or resolution of the appellant

company to file the appeal, which renders the appeal itself to be not maintainable.

5. Shri Ashoke Kumar Chakraborty, learned Additional Solicitor General of India representing the respondent nos.12 and 13, Shri Dhiraj Trivedi, learned Deputy Solicitor General of India representing the respondent no.14 and Shri Sabyasachi Chatterjee, learned counsel representing the respondent nos.5, 6 and 7 (petitioners in WPA 21474 of 2023, WPA 21477 of 2023 and WPA 21478 of 2023) have jointly informed this Court that an FIR No.41 of 2024 dated 09.02.2024 under Sections 420/406/120B of the Indian Penal Code in Hare Street Police Station, Kolkata has already been registered and the investigation is going on. Learned counsel for the appellant and the aforesaid learned counsels have also jointly informed that another order was passed yesterday by the learned Single Judge and some order has been passed today which have not been challenged in the present appeal.
6. Considering the facts and circumstances of the case in its entirety, the fact that all the writ petitions as mentioned in the memorandum of appeal are stated to be pending before the learned Single Judge, and that an investigation is going on:

we do not find any good reasons to entertain this appeal at this stage.

7. For all the reasons aforestated the appeal is dismissed.
8. Pending application, if any, is also dismissed.
9. We make it clear that any observation made in the body of this order shall not be treated as adverse to the appellant or any of the private respondent in any proceedings including investigation and the concerned Court and the investigating agency shall be free to proceed in accordance with law.

(Surya Prakash Kesarwani, J.)

(Rajarshi Bharadwaj, J.)