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IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

ORIGINAL SIDE

APOT/212/2024
WITH WPO/110/2023
IA NO: GA/1/2024, GA/2/2024

ASHISH CHOKHANI
VS
STILTON DESIGNS PVT LTD AND ORS

BEFORE :
THE HON'BLE JUSTICE JOYMALYA BAGCHI
And
THE HON'BLE JUSTICE GAURANG KANTH
Date : 21st August, 2024

Appearance :
Mr. Ashish Chokhani
appears in person.

Mr. Biswajit Mukherjee, Adv.
Ms. Manisha Nath, Adv.
...for the respondent.

The Court : The appeal against an order rejecting review application is not maintainable under Order 47 Rule 7 Civil Procedure Code. However, the appellant submits the appeal may be entertained under clause 15 of the Letters Patent. In Shah Babulal Khimji Vs Jayaben D. Kania (1981) 4 SCC 8 the Hon'ble Supreme Court has held only when vital rights of a party are affected the order may be treated as a judgment appealable under clause 15 of the Letters Patent.

Mr. Chokhani appears in person and contends that it is incorrectly recorded that he has admitted the dues payable to the Corporation. He also contends that in the order it is incorrectly recorded that the tenant has paid all the rents to the landlord.

By the order impugned the Hon'ble Single Bench has merely dismissed the review application after clarifying the submissions as made by the parties have been merely recorded by the Court in the order under review.

We have also gone through the order dated 30th January, 2023 which was under review. In the said order submission of the writ petitioner/tenant that he has paid the rents have been recorded. Recording of such submission does not amount to an order of the Court. Even the submissions of Mr. Chokhani have been recorded in the said order that he admitted some dues were payable to the Corporation but not the amount quoted in the distress warrant. In our opinion, recording of these submissions do not amount to any right being decided inter parties which calls for entertaining the appeal against the order dismissing the review application under clause 15 of the Letters Patent.

It is further contended that KMC has issued a notice for attachment of rent. This is beyond the scope of the appeal and it is open to the appellant to seek appropriate remedy in accordance with law, if so advised.

With the above observations, the appeal is dismissed.

(GAURANG KANTH, J.)

(JOYMALYA BAGCHI, J.)

