



OSA(CAD).No.159 of 2

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

OSA(CAD).No.159 of 2023

and

C.M.P.No.27882 of 2023

A.Sreekanth

...Appellant

Vs.

Bharat Petroleum Corporation Limited,
Having its Registered Office at
Bharat Bhavan, No.4 & 6,
Curimbhoy road, Ballard Estate,
PB No.688, Mumbai - 400 001
and having its place of business at
BPCL, Trichy Retail Territory, 1st Floor,
Raj Towers, Near Kalaighnar Arivalayam,
Karur Bye Pass Road, Trichy - 620 002
and Represented by its Territory Manager,
Mr.Yallapu Gunna Rao

...Respondent

Prayer: Original Side Appeal filed under Order XXXVI, Rule 9 of Madras High Court Original Side Rules r/w. Section 13 of the Commercial Courts Act, 2015, against the order dated 13.10.2023 in A.No.3864 of 2023 in C.S.No.69 of 2011.

For Appellant : Mr.S.T.Bharath Gowtham

For Respondent : Mr.Krishna Srinivasan for
M/s.Ramasubramaniam & Associates



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J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

Challenge in this appeal is to the order of the Commercial Division made in Application No.3864 of 2023 in C.S.No.269 of 2011, permitting the respondent herein / plaintiff in the suit to produce secondary evidence of certain documents.

2.The suit was laid by the respondent herein seeking a decree for recovery of a sum of Rs.8,24,67,463.69 allegedly due towards compensation payable for the failure on the part of the appellant to furnish C-Forms as required under the Central Sales Tax Act along with interest at 12% per annum from the date of the suit till date of recovery. The suit which was filed as an ordinary suit in the year 2011 stood transferred to the Commercial Division in terms of Section 15 of the Commercial Courts Act, 2015. After the transfer, the suit proceeded as per the procedure laid down under the Commercial Courts Act, 2015.

3.It is in such suit, an application came to be filed seeking permission to produce secondary evidence of certain documents. The Commercial



Division, on being satisfied with the reasons assigned in the application, allowed the application, permitting the plaintiff to produce the photo copies of certain documents. It is this order, which is assailed before us. Though an objection relating to maintainability of the appeal was taken, in view of the provisions of Section 13 of the Commercial Courts Act, we do not think, we should labour much on the maintainability of the appeal under the Commercial Courts Act, as we find, the order passed will not qualify as a judgment of the Clause-15 of the Letters Patent to enable the appellant to maintain the appeal *de hors* the provisions of the Commercial Courts Act, 2015 also. The law is settled on the question of what is a judgment under Clause-15 of the Letters Patent. In order to qualify as a judgment, the order passed by the Single Judge of the High Court must have decided something on the rights of the parties.

4.As we have already pointed out, the order passed in Application No.3864 of 2023 is only an order permitting the respondent to produce secondary evidence (photo copies of certain documents). This order, in our considered opinion, does not constitute a judgment within the meaning of Clause-15 of the Letters Patent. Therefore even *de hors* of Section 13 of the Commercial Courts Act, this appeal is not maintainable. This appeal is



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therefore, **dismissed**. No costs. Consequently, connected miscellaneous
petition is closed.

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(R.S.M., J.) (R.S.V., J.)
12.01.2024

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Internet:Yes

Index:No

Speaking

Nuetral Citation :Yes



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and
R.SAKTHIVEL, J.

KKN

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