

I-2
06.08.2025
Court No. 12
S.G. (p.a)

MAT 376 of 2024

Birbal Ray
Vs.
Bally Jute Company Ltd. & Ors.

Mr. Anirban Kar
Mr. Rohit Mahato
... for the Appellant.

Mr. Shiv Chandra Prasad
... for the P.F. Authority

Mr. Bhaskar Mukherjee
Ms. Deblina Banerjee
...for the Respondent No. 3

1. In this case, the Court is vexed with an issue of seminal importance, relating to the maintainability of an intra-Court appeal filed under Chapter-VIII of the “Appellate Side Rules of the High Court at Calcutta”. The dictum of the Rules as above and Clause-15 of the Letters Patent is that an intra-Court appeal is to be filed from a judgment of one judge of the High Court, that is the Single Bench, before the Division Bench. The relevant portion of the “Appellate Side Rules of the High Court at Calcutta” be quoted as herein below:

“2. Every appeal to the High Court under clause 15 of the Letters Patent from a judgment of a Judge sitting singly, on the Appellate Side of the High Court, shall be presented to the Deputy Registrar, or such other officer as the Registrar may appoint, within 60 days from the date of the judgment appealed from, unless

the court in its discretion, on good cause shown, shall grant further time.

NOTES

Clause 15 of the Letters Patent provides as follows:

"15. Appeal from the courts of original jurisdiction to the High Court in its appellate jurisdiction. —And We do further ordain, that an appeal shall lie to the said High Court of Judicature at Fort William in Bengal from the judgment (not being a judgment passed in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a Court subject to the superintendence of the said High Court, and not being an order made in the exercise of revisional jurisdiction and not being a sentence or order passed or made in the exercise of the power of superintendence under the provisions of section 107 of the Government of India Act or in the exercise of criminal jurisdiction) of one Judge of the said High Court or one Judge of any Division Court, pursuant to section 108 of the Government of India Act, and that notwithstanding anything hereinbefore provided an appeal shall lie to the said High Court from a judgment of one Judge of the said High Court or one Judge of any Division Court, pursuant to section 108 of the Government of India Act made on or after the first day of February one thousand nine hundred and twenty-nine in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a court subject to the superintendence of the said High Court, where the Judge who passed the judgment declares that the case is a fit one for appeal, but that the right of appeal from other judgments of Judges of the said High Court or of such Division Court shall be to Us, Our heirs or successors in Our or Their Privy Council as hereinafter provided."

2. An order of the Single Bench dated **February 6, 2024 in WPA 18750 of 2023**, is under challenge in this intra-Court appeal. Relevant portion thereof is quoted as herein below:

"I direct Criminal Investigation Department of this State to investigate into the affair of Bally Jute

Company Limited Shramik Sangathan, of which General Secretary is said Birbal Roy, and to file a report as to the activities of the said union and also as to the personal properties both moveable and immovable of Birbal Roy and his close relatives within a period of four weeks from date. By this order, nobody's interest as has been pleaded in this petition would be jeopardized and in this matter necessary order would be passed after receiving the report.

I direct the Registrar General of this Court to communicate this order to Criminal Investigation Department immediately."

- 3.** The legality and propriety of the said impugned order has been challenged for the reason inter-alia that the said order is absolutely unrelated with the subject matter of the writ petition, which has been preferred by the petitioner to seek an order of the Court for grant of gratuity amount as claimed due to him in terms of the statutory provisions. It has been submitted that the writ petition is based on the allegation of violation by the respondent authority there in, of the statutory right of the petitioner. It has been submitted further that the Court has misdirected itself by not considering the dispute in issue before it, but digressing to reveal something which is based not on the records. For the said reason, by dint of the impugned order, the Single Bench has directed the Criminal Investigation Department of the State to conduct an enquiry and submit a report. That since the said order is unconnected with the grievance expressed

or reliefs sought for by the writ petitioner and has a dilatory effect to the prejudice of the writ petitioner, it has been challenged before this Court.

4. Parties are represented. No report by the Criminal Investigation Department of the State has yet been submitted.

5. So far as the order under challenge is concerned, this Court is constrained to find that the same is not a “judgment” within the contemplation of the Rules or Clause-15 of Letters Patent, as mentioned above. The Court finds the said order not to have decided any issue or the *lis* between the parties. In general an intra-Court appeal, which is an appeal within the same Court arising from an order of a Single Judge to the Division Bench of the Court, is typically only allowed against a “judgment”. Orders, those are not considered as “judgments” are generally not appealable. Exceptions to this are, when there are specific provisions allowing for it, or in case of fraud or lack of jurisdiction of the Court.

6. The impugned order is found to be a mere direction of the Court, essentially interlocutory in nature. Hence an intra-Court appeal against the same would not be maintainable. It is nobody’s case that

the impugned order is the result of practice of fraud upon the Court or that the Court did lack jurisdiction to pass the same. Hence, there would not be any scope for this Court to interfere into the said order of the Single Judge dated **February 6, 2024.**

- 7.** The appeal being not maintainable is dismissed. The Hon'ble Single Judge is requested to proceed with the matter on merit of the same, without being influenced by any of the observations of this Court as mentioned above.
- 8.** Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance all requisite formalities.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)