

(2000) 05 SC CK 0040

In the Supreme Court Of India

Case No : Civil Appeal No. 3400 of 2000 (Arising out of SLP (Civil) No. 7084 of 2000)

Hara Parbati Cold Storage Pvt. Ltd. and Another

APPELLANT

Vs

UCO Bank and Others

RESPONDENT

Date of Decision : 05-05-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24

Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 31

Citation : (2000) 102 CompCas 401 : (2000) 3 CTC 360 : (2000) 8 JT 239 : (2000) 91 RD 609 : (2000) 9 SCC 716 : (2000) 3 UPLBEC 2455

Hon'ble Judges : M. Jagannadha Rao, J;M. B. Shah, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M. Jagannatha Rao, J.—Special leave granted.

2. The suit by the respondent Bank is of the year 1984. It was filed in the Court of the 1st Assistant District Judge and was transferred to the Original Side of the High Court in 1987 u/s 24 of the CPC.

3. In a recent judgment in Allahabad Bank Vs. Canara Bank and Another, (at pages 426, 427) this Court has observed that all suits from civil courts shall stand transferred to the Debts Recovery Tribunal constituted under the Recovery of Debts due to Banks and Financial Institutions Act, 1993. This transfer u/s 31 of the Act is automatic, and the Registrar of the High Court, where the suit is pending , is only to perform the ministerial act of transferring the papers to the Tribunal. But unfortunately, the learned Single Judge of the Calcutta High Court, Amitav Lala, J. held that this suit was transferred to the High Court earlier on the Judicial Side, u/s 24 of the CPC and the Registrar could not have therefore directed the file to be sent to* the Tribunal. This view was reversed by the Division Bench which held that the transfer was automatic.

4. The fact that the suit was originally filed in the Assistant District Court and was transferred u/s 24 of the CPC to the Original Side of Calcutta High Court to be tried in its extraordinary jurisdiction, in our opinion makes no difference. If initially a suit is filed on the Original Side of the High Court, such a suit is liable to be transferred if it exceeds the pecuniary limits mentioned in the above said Act. This is a consequence of Section 31 of the Act. There is no difference between suits originally instituted on the Original Side of the High Court and those suits subsequently transferred to the High Court from a civil court u/s 24 of the C.P.C. Both types of suits get automatically transferred to the Tribunal and the High Court has no jurisdiction to deal with the matter.

5. We are surprised that the learned Single Judge Amitav Lala, J. has chosen to give a grossly unreasonable and perverse interpretation to the provisions of the Act and Letters Patent of the Calcutta High Court in holding that the order passed by the Registrar in transferring the matter to the Tribunal is a nullity because the earlier order passed u/s 24 of C.P.C. was on the Judicial Side. The view expressed by the learned Single Judge is contrary to the purposes of the Act as explained by this Court in the Allahabad Bank Case. The learned Division Bench of the High Court was wholly justified in setting aside the order of the learned Single Judge.

6. The appeal is dismissed with costs quantified at Rs. 5000/-. The amount of Rs. 5000/- will be deposited in the Supreme Court Legal Services Committee.