
(2010) 10 AHC CK 0334
In the Allahabad High Court
Case No : Special Appeal No. 1011 of 2010

Kapil Deo

APPELLANT

Vs

Virendra Kumar Rastogi and Others

RESPONDENT

Date of Decision : 29-10-2010

Acts Referred:

Allahabad High Court Rules, 1952 — Rule 5

Citation : (2011) 1 AWC 711 : (2011) 1 UPLBEC 789

Hon'ble Judges : Ferdino Inacio Rebello, C.J.;Amreshwar Pratap Sahi, J

Bench : Division Bench

Judgement

Ferdino Inacio Rebello, C.J. and Amreshwar Pratap Sahi, J.—We have heard learned Counsel for the Appellant and learned Counsel for the Respondents.

2. The issue before us is as to whether this appeal is maintainable.

3. In the instant case, admittedly the appeal was preferred against an order passed by the statutory authority under a local Act, namely The U. P. Cooperative Societies Act. 1965. The appellate order and the order passed by the authority were challenged before the learned single Judge.

4. Considering Chapter VIII. Rule 5 of the Allahabad High Court Rules, such an appeal would not be maintainable.

5. However, on behalf of the Appellant, learned Counsel draws the attention of the Court to the judgment in I.N.G. Vysya Bank Ltd. v. Shamken Spinners Ltd. and Ors. 2010 (8) ADJ 543 (DB), to contend that in the case where a learned single Judge exceeds jurisdiction, a special appeal would be maintainable to that extent. We have heard learned Counsel and also considered the ratio in I.N.G. Vysya Bank Ltd. (supra). In that case, the issue was initiated for want of jurisdiction on the part of the company court. In that context, this Court held that the appeal would be maintainable.

6. In the present case, it is nobody's contention that the authority which passed

the order in appeal, had no jurisdiction or for that matter, the learned single Judge. The issue is not exercise of jurisdiction by the learned single Judge. The issue is exercise of jurisdiction by the authority in respect of whom the petition was filed challenging that order.

7. Considering the above, we are not inclined to interfere in the order of the learned single Judge. The present appeal filed is not maintainable and consequently the appeal is dismissed.

The interim order stands vacated and all other applications also stand disposed of.