

(2025) 11 MAD CK 2018

In the Madras High Court

Case No : Latter Patent Appeal No. 168958 Of 2024

K.Dalpat Singh

APPELLANT

Vs

M/s.GM Modular Private Limited And Others

RESPONDENT

Date of Decision : 26-11-2025

Acts Referred:

Code Of Civil Procedure, 1908 — Order 43 Rule 1
Commercial Courts Act, 2015 — Section 13(1A)

Citation : (2025) 11 MAD CK 2018

Hon'ble Judges : Dr. G.Jayachandran, J;Mummineni Sudheer Kumar, J

Bench : Division Bench

Advocate : N.Nithianandam

Judgement

1. The Learned Single Judge allowed the common order in (T).OP(TM).Nos.319 & 320 of 2023, dated 06.09.2024.
2. The appellant/K.Dalpat Singh appeal filed under Clause 15 of Letters Patent against the order passed in (T).OP(TM).No.319 of 2023, dated 06.09.2024. The Registry has returned the papers, raising the issue of Maintainability.
3. The Registry states that how the appeal will lie against the order which is not enumerated in Order 43, Rule 1 of C.P.C. Therefore, the matter is listed before us to decide on maintainability.
4. When a similar issue arose, this Court, after considering the language used in Section 13 (1A) of Commercial Courts Act, 2015, relied on the judgment of the Delhi High Court in V.R.Holdings Pvt Ltd vs. Hero Investcorp Limited and another, reported in 2023 SCC Online Del 4673. The Court has held that in case of order passed by the Learned Single Judge in an original petition filed for rectification of a Trademark or patent, the High Court would be exercising its power not under the Code of Civil Procedure but under Letters Patent Jurisdiction. Therefore, the provisions of Order 43 Rule 1 cannot be looked into for maintainability of the appeal.

5. Since, the order is passed in the Intellectual Property Division and not the Commercial Court Division, insofar as rectification which reaches finality on its disposal, ought to have been taken as a judgment passed in exercise of power under Clause 12 of Letters Patent. Consequently, the appeal under Clause 15 of Letters Patent is held to be maintainable. Therefore, being a final order, the order passed by the Learned Single Judge in (T).OP(TM).No.319 of 2023 is appealable. Hence, the appeal under Clause 15 of Letters Patent is maintainable.

6. We are in total agreement with the above submission. The order which is final in nature and arising out of statute upon which the High Court has assumed jurisdiction in view of the Tribunals Reforms Act under which the IPAB was abolished, the provisions under Section 13 (1A) of the Commercial Courts Act shall not stand in the way. The right of the appellant to challenge the order passed by the Learned Single Judge through an intra-court appeal by invoking the powers under Clause 15 of the Letters Patent.

7. Accordingly, the Registry is directed to number the appeal, if it is otherwise in order.