
(1996) 01 DEL CK 0023

In the Delhi High Court

Case No : Letters Patent Appeal No. 9 of 1996

M.C. Mittal

APPELLANT

Vs

Central Bank of India

RESPONDENT

Date of Decision : 18-01-1996

Acts Referred:

Citation : (1996) 1 AD 545 : (1998) 94 CompCas 466 : (1996) 61 DLT 455 :
(1996) 36 DRJ 315 : (1996) 113 PLR 23 : (1996) RLR 174

Hon'ble Judges : M. Jagannadha Rao, C.J; Dalveer Bhandari, J

Bench : Division Bench

Advocate : Ashok Gumani, for the Appellant;

Judgement

M. Jagannadha Rao, C.J.

(1) This is a Letters Patent Appeal preferred against the order passed by the learned single Judge in a writ petition whereby the learned Judge refused to entertain the writ petition under Article 226 of the Constitution of India, inasmuch as the appellant had an alternative remedy by way of appeal before the Appellate Tribunal constituted under the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (Act 51 of 1993). In the writ petition, the petitioner sought to challenge an order passed by the Tribunal constituted under the above said Act, refusing amendment of the written statement under Order 6 Rule 17, CPC .

(2) The learned Judge held that inasmuch as an effective alternative remedy was available under the Act, he was not inclined to entertain the writ petition. Against this order, the present appeal has been preferred. Section 17 of the Act reads as follows:-

"17. Jurisdiction, powers and authority of Tribunals.

(1) A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain and decide applications from the banks and

financial institutions for recovery of debts due to such banks and financial institutions.

(2) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made by a Tribunal under this Act."

(3) Section 19 of the Act deals with the filing of an application before the Tribunal and Section 19(4) reads as follows:

"19(4) The Tribunal may, after giving the applicant and the defendant an opportunity of being heard, pass such orders on the application as it thinks fit to meet the ends of justice."

(4) Section 19(6) which deals with interlocutory applications, reads as follows:-

"19(6) The Tribunal may make an interim order (whether by way of injunction or stay) against the defendant to debar him from transferring, alienating or otherwise dealing with, or disposing of, any property and assets belonging to him without the prior permission of the Tribunal."

(5) Section 20 deals with power of the Tribunal, which reads as follows:- .Ls1

"20. Appeal to the Appellate Tribunal.

(1) Save as provided in sub-section (2), any person aggrieved by an order made, or deemed to have been made, by a Tribunal under this Act, may prefer an appeal to an Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Appellate Tribunal from an order made by a Tribunal with the consent of the parties.

(3)....."

(6) A reading of sub-clause (2) of Section 20 shows that the Appellate Tribunal shall exercise its powers in relation to "any order" made or deemed to have been made by the Tribunal. The words "any order" would include interlocutory orders, which substantially affect the rights of the parties, and those words are not confined to the final disposal of the application filed u/s 19. Similarly, sub-clause (1) of Section 20 reads the words "an order" and that would also mean that an appeal lies against interim orders which substantially affect the rights of the parties, and those words are not confined to an order which finally disposes of the application before the Tribunal.

(7) Inasmuch as the appellant has a wider remedy by way of an appeal, this court will not exercise jurisdiction under Article 226 of the Constitution of India. The learned Judge was, Therefore, right in not entertaining the writ petition.

(8) The appeal is dismissed.