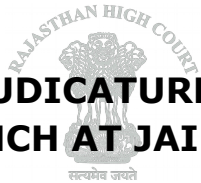




[2024:RJ-JP:7757-DB]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Special Appeal Writ No. 157/2024

in

S.B. Civil Writ Petition No.19865/2023

Rajeev Chaturvedi S/o Shri D.S. Chaturvedi, Forest House,
Opposite Civil Line Police Station, Jaipur Road, Ajmer Rajasthan-
At Present Address N-13, Gandhi Nagar, Jaipur Rajasthan.

----Appellant

Versus

1. Commissioner, Jaipur Development Authority, Ramkishore Vyas Bhawan, Indira Circle, Jawahar Lal Nehru Nagar, Jaipur- 302004 (Rajasthan)
2. Deputy Commissioner Zone-12, Jaipur Development Authority, Ramkishore Vyas Bhawan, Indira Circle Jawahar Lal Nehru Nagar, Jaipur-302004 (Rajasthan)

----Respondents

For Appellant(s) : Mr. Manoj Khanna, Adv. with
Ms. Chandrika Kumpawat, Adv.
For Respondent(s) : Mr. Amit Kuri, Adv. with
Mr. Dharma Ram, Adv.

HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MR. JUSTICE BHUWAN GOYAL

Judgment

Reserved on :: **14/02/2024**
Pronounced on :: **20/02/2024**

(Per Hon'ble Pankaj Bhandari, J)

1. Appellant has preferred this Special Appeal (Writ) aggrieved by Order dated 19.01.2024, whereby writ petition filed by the respondents was allowed and Orders dated 14.06.2022 and 13.04.2023 passed by National Consumer Disputes Redressal Commission, New Delhi (for short the 'NCDRC') were quashed and





set aside and the appeal before the NCDRC was restored to its original number subject to payment of Rs.10,000/-.

2. Brief facts of present appeal are that the respondent-JDA preferred an appeal before the NCDRC and on non-appearance of counsel for the JDA, the appeal was dismissed in default vide order dated 14.06.2022. Thereafter, application for recalling of the order dated 14.06.2022 was filed on behalf of respondent- JDA, which was dismissed by NCDRC on 13.04.2023. Against the said order, respondent- JDA preferred SLP before the Apex Court bearing Special Leave Petition (Civil) Diary NO(S).30332/2023. The said SLP was dismissed as withdrawn on 18.08.2023 and the Apex Court in light of the judgment of M/S Universal Sampo General Insurance Co. Ltd. Vs. Suresh Chand Jain & Anr., granted liberty to the petitioners to withdraw the SLP while reserving the right to approach the High Court for appropriate relief. Respondent- JDA thereafter approached the Rajasthan High Court by filing writ petition under Article 227 of the Constitution of India assailing the orders passed by the NCDRC. Learned Single Judge vide order dated 19.01.2024 allowed the writ petition and has set aside the orders passed by the NCDRC.

3. It is contended by counsel for the appellant- Mr. Manoj Khanna that appellant has filed writ petition under Article 227 of Constitution of India challenging the orders passed by the NCDRC. Since the writ petition has been filed under the supervisory jurisdiction, Rajasthan High Court is not having jurisdiction to entertain the writ petition. It is contended that initially a complaint was filed before the State Commission which was allowed. It is





also contended that respondent- JDA has wrongly mentioned in the writ petition that the SLP was dismissed as withdrawn with liberty to file writ petition before the Rajasthan High Court, as there is no direction in the order passed by the Apex Court permitting the respondent- JDA to file writ petition before the Rajasthan High Court. It is contended that Article 227 of Constitution of India gives power of superintendence to the High Courts over all Courts and Tribunals within its territorial jurisdiction. It is further contended that since the NCDRC is situated at New Delhi and the orders passed by the NCDRC are under challenge by way of filing writ petition under Article 227 of Constitution of India, Rajasthan High Court is not having jurisdiction.

4. It is contended that learned Single Judge has wrongly entertained the writ petition under Article 227 of Constitution of India and has erred in interpreting the judgments passed in *Ibrat Faizan Vs. Omaxe Buildhome Private Limited* **AIR 2022 SC 2363** and *M/S Universal Sampo General Insurance Co. Ltd. Vs. Suresh Chand Jain & Anr.* **2023 INSC 649**. It is also contended that all decisions of Tribunals are subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls. It is contended that learned Single Judge has clearly erred in entertaining the writ petition.

5. Learned counsel for the appellant has placed reliance on *Hari Vishnu Kamath Vs. Syed Ahmad Ishaque & Ors.* AIR 1955 SC 233 & Anr., *Central Council for Research in Ayurvedic Sciences Vs. Bikartan Das & Ors.* **2023 SCC OnLine SC 996**, *Union of India Vs. Alapan Bandyopadhyay*, **Civil Appeal No.197/2022**,





Rajnish Kumar Rai Vs. Union of India & Ors. **Special Leave Petition (Civil) No.20054/2023**, Chief Executive Officer and Vice Chairman Gujarat Maritime Board Vs. Asiatic Steel Industries Ltd. & Ors. **Civil Appeal No.3807/2020**, Kishore Samrite Vs. State of Uttar Pradesh & Ors. **(2013) 2 SCC 398**, Suzuki Parasrampuriah Suitings Private Ltd. Vs. Official Liquidator of Mahendra Petrochemicals Ltd. & Ors. **(2018) 10 SCC 707**, Union of India vs. E.I.D. Parry (India) Ltd. **(2000) 2 SCC 223**, Mangalbai & Ors. vs. Dr. Radhashyam S/o Parischandra Agarwal **(1992) 3 SCC 448**, Sushilabai Laxminarayan Mudliyar & Ors. vs. Nihalchand Waghajibhai Shaha & Ors. **1993 Supp (1) SCC 11**, and The State of Madhya Pradesh & Ors. vs. Bherual passed by Supreme Court decided on 15.10.2020 in **Special Leave Petition (C) Diary No.9217/2020**.

6. Mr. Amit Kuri, learned counsel appearing for respondent- JDA has opposed the appeal. It is contended that initially the complaint was filed before Rajasthan State Consumer Disputes Redressal Commission, therefore, the Rajasthan High Court was having jurisdiction to entertain the writ petition under Article 227 of Constitution of India and learned Single Judge has rightly exercised its jurisdiction.

7. Learned counsel for the JDA has placed reliance on M/S Universal Sompco General Insurance Co. Ltd. Vs. Suresh Chand Jain & Anr. passed by Supreme Court in **Special Leave Petition (Civil) No.5263/2023**, Banarsi Devi. Vs. Pink City Heart and General Hospital & Ors. **Special Leave to Appeal Nos.16987-16988/2023**, Ibrat Faizan Vs. Omaxe Buildhome Private Limited decided by Apex Court on 13.05.2022 in **Civil Appeal**





No.3072/2022, Haryana Shehri Vikas Pradhikaran & Anr. Vs. Chander Kumar Kak passed by Supreme Court on 13.10.2023 in Special Leave Petition Civil Diary No.21599/2022.

8. We have considered the contentions and have perused the order dated 19.01.2024 passed by learned Single Judge.

9. Learned Single Judge has exercised its jurisdiction treating the writ petition as having been filed under Article 226 of Constitution of India. However, from bare perusal of the writ petition, it is evident that writ petition was filed invoking Article 227 of Constitution of India.

Sub Clause (1) of Article 227 of Constitution of India reads as under:-

“Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.”

10. In Union of India vs. Alapan Bandyopadhyay (supra), the Apex Court set aside the order passed by Calcutta High Court and held as under:-

“When once a Constitution Bench of this court declared the law that “all decisions of Tribunals created under [Article 323A](#) and [Article 323B](#) of the Constitution will be subject to the scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls”, it is impermissible to make any further construction on the said issue. The expression “all decisions of these Tribunals” used by the Constitution Bench will cover and take within its sweep orders passed on applications or otherwise in the matter of transfer of Original Applications from one Bench of the Tribunal to another Bench of the Tribunal in exercise of the power under [Section 25](#) of the Act. In other words, any decision of such a Tribunal, including the one passed under [Section 25](#) of the Act could be subjected to scrutiny



only before a Division Bench of a High Court within whose jurisdiction the Tribunal concerned falls. This unambiguous exposition of law has to be followed scrupulously while deciding the jurisdictional High Court for the purpose of bringing in challenge against an order of transfer of an Original Application from one bench of Tribunal to another bench in the invocation of [Section 25](#) of the Act. The law thus declared by the Constitution Bench cannot be revisited by a Bench of lesser quorum or for that matter by the High Courts by looking into the bundle of facts to ascertain whether they would confer territorial jurisdiction to the High Court within the ambit of [Article 226\(2\)](#) of the Constitution. We are of the considered view that taking another view would undoubtedly result in indefiniteness and multiplicity in the matter of jurisdiction in situations when a decision passed under [Section 25](#) of the Act is to be called in question especially in cases involving multiple parties residing within the jurisdiction of different High Courts albeit aggrieved by one common order passed by the Chairman at the Principal Bench at New Delhi.

17. The undisputed and indisputable position in this case is that the WPCT No.78/2021 was filed to challenge the order dated 22.10.2021 in P.T.No.215/2021 of the Central Administrative Tribunal, Principal Bench at New Delhi, (by the Chairman of the Tribunal in exercise of the power under [Section 25](#) of the Act sitting at the Principal Bench) transferring O.A.No.1619/2021 to its files. On applying the said factual position to the legal exposition in L. Chandra Kumar's case (supra) it is crystal clear that the Principal Bench of the Central Administrative Tribunal at New Delhi, which passed the order transferring O.A.No.1619/2021 vide order in P.T.No.215/2021 falls within the territorial jurisdiction of High Court of Delhi at New Delhi. Needless to say that the power of judicial review of an order transferring an Original Application pending before a Bench of the Tribunal to another Bench under [Section 25](#) of the Act can be judicially reviewed only by a Division Bench of the High Court within whose





territorial jurisdiction the Bench passing the same, falls. In fact, the decision in Bhavesh Motiani's case (supra), relied on by the respondent is also in line with the said position as [in that case](#) also, as against the order of transfer passed under [Section 25](#) of the Act by the Principal Bench of the Central Administrative Tribunal at New Delhi Writ Petition was filed by the aggrieved party only before the High Court of Delhi. This is evident from the very opening sentence of [the said judgment](#), which reads thus:

"The present petition has been filed being aggrieved by order dated 30.11.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the 'Tribunal'), by the O.A. No.421/2018 pending before the Ahmedabad Bench has been transferred to the Principal Bench of the Tribunal."

In the instant case, the High Court at Calcutta has usurped jurisdiction to entertain the Writ Petition, viz., WPCT No.78/2021, challenging the order passed by the Central Administrative Tribunal, New Delhi, in P.T. No.215/2021, even after taking note of the fact that the Principal Bench of the Tribunal does not lie within its territorial jurisdiction.

18. In the circumstances, based on our conclusion the impugned judgment and final order in WPCT No.78/2021 passed by the High Court at Calcutta is to be held as one passed without jurisdiction and hence, it is ab initio void. Accordingly, it is set aside. The writ petition being WPCT No.78/2021 filed before the High Court at Calcutta is accordingly dismissed, however, with liberty to the petitioner therein/the respondent herein to assail the same before the jurisdictional High Court, if so advised. In that regard, we clarify the position that we have not made any finding or observation regarding the correctness or otherwise of the order dated 22.10.2021 passed by the Principal Bench of the Tribunal (in fact, by the Chairman of the Tribunal) in P.T.No.215/2021. Needless to say that in





the event of filing of such a Writ Petition, it shall be considered on its own merits, in accordance with law.”

11. In M/S Universal Sampo General Insurance Co. Ltd. (supra), Apex Court in Para No.38 observed as under:

“In the aforesaid view of the matter, we have reached the conclusion that we should not adjudicate this petition on merits. We must ask the petitioner here to first go before the jurisdictional High Court either by way of a writ application under Article 226 of the Constitution or by invoking the supervisory jurisdiction of the jurisdictional High Court under Article 227 of the Constitution.”

12. As per M/S Universal Sampo General Insurance Co. Ltd. (supra), it was held by the Apex Court that the petitioner should first go before the jurisdictional High Court either by way of a writ petition under Article 226 of the Constitution or by invoking the supervisory jurisdiction of the jurisdictional High Court under Article 227 of the Constitution. The present writ petition before the Single Bench has been filed under Article 227 of the Constitution of India. Article 227 of Constitution of India gives superintendence to every High Court over all Courts and Tribunals throughout the territories in relation to which it exercises jurisdiction. In the present case, the impugned orders challenged in the writ petition have been passed by the NCDRC, New Delhi, over which Rajasthan High Court does not have superintendence under Article 227 of Constitution of India, therefore, in our considered view, the present writ petition under Article 227 of Constitution of India was not maintainable before the Rajasthan High Court. The learned Single Judge has not referred to Article 227 of Constitution of India in the impugned order and has treated the writ petition as if





it was filed under Article 226 of Constitution of India. The writ petition having been filed under Article 227 of Constitution of India seeking quashing of the orders passed by the NCDRC, New Delhi, Rajasthan High Court was not the jurisdictional High Court, hence, we are of the considered view that the impugned order dated 19.01.2024 passed by learned Single Judge deserves to be and is accordingly, quashed and set aside.

13. Accordingly, Special Appeal (Writ) filed by the appellant is allowed.

14. Since the Special Appeal (Writ) is allowed, the Civil Writ filed by the respondent is dismissed on ground of lack of jurisdiction. Respondent would be free to approach the jurisdictional High Court, if so advised.

15. Stay application and other pending applications, if any, stand disposed.

(BHUWAN GOYAL),J

(PANKAJ BHANDARI),J

CHANDAN /