

Jugal Kishore Paliwal

Vs

S. Sat Jit Singh and Another

Special Leave Petition (Civil) No. 3894 of 1982

(Syed M. Ali, A. Varadarajan JJ)

06.05.1982

ORDER

1. Counsel for both the parties are present and we have heard them at length. The High Court was clearly wrong in refusing to go into the merits of the case on the ground that appeal was not maintainable in view of the full bench decision in *University of Delhi v. Hafiz Mohd. Said* (AIR 1972 Del 102 : ILR (1972) 2 Del 1). This decision is longer good law in view of our decision in the case of *Shah Babulal Khimju v. Jayaben D. Kania* (AIR 1981 SC 1786 : (1981) 4 SCC 8 : (1982) 1 SCR 187) where we have laid down various parameters and conditions under which an appeal can lie from a single Judge to the division bench. Paragraph 115 at page 1816 of the above-referred decision may be extracted thus : (SCC p. 57, para 115)

Thus, in other words every interlocutory order cannot be regarded as a judgment but only those orders would be judgments which decided matters of moment or affect vital and valuable rights of the parties and which work serious injustice to the party concerned. Similarly, orders passed by the trial Judge deciding question of admissibility or relevance of a document also cannot be; treated as judgments because the grievance on this score can be corrected by the appellate court in appeal against the final judgment.

2. In the instant case as the amendment of the written statement was sought at the time of framing issues and it vitally affects the right of the parties and seeks to work some injustice to the plaintiff, it merits serious consideration by the appellate court on the question whether or not amendment should be allowed. It would certainly not be a purely interlocutory order against which no appeal before the LPA bench would be maintainable. More than this we would not like to say at this stage as we intend to send the case back to the division bench for admitting the appeal and disposing it of according to law on merits. The order of the division bench date April 1, 1982 is set aside and the division bench is directed to admit the appeal and decide it on merits in accordance with law and in the light of the observation made above. We would request the High Court to decide the appeal as early as possible as the suit is; still pending. The appeal is accordingly allowed.

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