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C.A.No. 5882-5883 OF 2000

ITEM No.16

Court No. 1

SECTION XVII
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.5882-5883/2000

BHARAT INTERNATIONAL & ANR.

Appellant (s)

VERSUS

STATE BANK OF TRAVANCORE & ANR.

Respondent (s)

(With Appln(s). for condonation of delay in filing appeal.)

Date : 17/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE P.VENKATARAMA REDDI

For Appellant (s) Mr. Indra Makwana, adv.

For Respondent (s) Mr. Bharat Sangal, adv.

Mr. B.K. Choudhary, adv.
Mr. M.D. Rai, adv.
Mr. E.C. Vidya Sagar,adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....J

.SP2

Delay condoned.

The appeals are allowed in terms of the signed
order. No costs.

.SP1

(Neena Verma)
Court Master

(Prem Prakash)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5882-5883 OF 2000~@@

M/s. Bharat International & Anr. ... Appellants

Versus

State Bank of Travancore & Anr. ... Respondents

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

These appeals call in question an order made by National Consumer Disputes Redressal Commission, New Delhi on 26.05.1999 as well as an order made by the Commission dismissing the Review Petition, on 16.11.1999. The order dated 26th May, 1999, which is the main order reads thus :

.....L.....I.....T.....T.....J
.SP1

"The claim is highly inflated. We do not have any pecuniary jurisdiction. Moreover, the case of the complainants is decided by the Debt Recovery Tribunal. We are not inclined to entertain this matter. Hence, this Original Petition is dismissed. If there is any remedy open to the complainants in law, they may do so."

.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Shorn of details, we may mention that facts giving rise to the filing of this statutory appeal are that the appellant obtained orders for export of carpets and approached respondent No.1 - Bank to obtain packing facility and bill discounting facility. The appellant also opened a current bank account with the respondent - Bank as desired by the Bank. After receipt of export orders for supply of carpets to M/s. Goyala, U.S.A., the appellant handed over original bills of landing for export of carpets to the respondent - Bank. Insurance premium was also received by the respondent - Bank from the appellant. According to the Bank, respondent No.2 - Corporation acted as an insurer of respondent - Bank. The appellant alleges that due to negligence and deficiency in service on behalf of respondent - Bank, the original bills of landing and export papers were not despatched and delivered to the bankers of the importers of carpets - M/s. Goyala in U.S.A. with the result that shipment was not released in their favour and the importer could not take delivery of the goods. No information was sent to the appellant by the respondent - Bank about this development. It is only when the appellant made enquiries about progress of the despatch, that the respondent - Bank informed the appellant that importer had not accepted the goods and advised the appellant to search for another buyer in USA, who would accept the goods of shipment. This exercise was also undertaken by the appellant at the instance of respondent - Bank. Another buyer M/s. Rose

Carpet House U.S.A. was approached to receive delivery of the shipment. The respondent - Bank, however, did not despatch and deliver original papers of bill of landing even to the new buyers as a result of which shipment could not be released by the new buyer also. The appellant says that because of the actions of the Bank, it suffered heavy financial losses. Alleging that the loss suffered by the appellant was due to negligence and deficiency in service of respondent - Bank, it approached the National Consumer Disputes Redressal Commission, New Delhi. It appears that in certain proceedings before the Debt Recovery Tribunal, an amount of Rs.30,88,000/- had been decreed in favour of the respondent - Bank. The appellant had filed counter-claim seeking decree in damages against the Bank in those proceedings initiated by the Bank. However, such counter claim was not entertainable, and hence not adjudicated upon, by the Debt Recovery Tribunal. In the original application filed before the National Consumer Disputes Redressal Commission, the appellant also included the sum of Rs.30,88,000/-, which had been decreed against it in its total claim.

On 12th October, 2000, when the matter came up before us, learned counsel for the appellant realising that the inclusion of the decretal amount in the claim before the Commission, which is not an appellate forum for Debt Recovery Tribunal, submitted that from the original application of claim filed before the National Consumer Disputes Redressal Commission, the appellant would reduce the amount of Rs.30,88,000/-, as per the decree granted by the Debt Recovery Tribunal in favour of the Bank and restrict its claim to the balance amount only. Learned counsel for the appellant submits before us that the appellant is bound by that statement and it shall accordingly restrict its claim before the National Consumer Disputes Redressal Commission after deducting the decretal amount of Rs.30,88,000/- from its claim.

After hearing learned counsel for the parties we are of the opinion that the manner in which original application has been disposed of by the National Consumer Disputes Redressal Commission leaves much to be desired. At the very threshold, the Commission has recorded that "0 he claim is highly inflated". Such a finding could not have been recorded without there being enough material on the record. No reasons have also been assigned for saying so. We also fail to understand as to how the Commission had come to the conclusion that it did not have pecuniary jurisdiction to deal with the matter. The other reason given in the impugned order, namely, that the case of the appellant had also been decided by the Debt Recovery Tribunal, was irrelevant insofar as the original application filed by the appellant is concerned. The decree of the Debt Recovery Tribunal was in a suit filed by the Bank. The impugned order of the Commission is bad and cannot be sustained. We, accordingly, allow this appeal and set aside the impugned order and remand the original application to the National Consumer Disputes Redressal Commission for its fresh disposal in accordance with law. The appellant shall restrict its claim by making an appropriate application, after reducing the decretal amount as indicated in our order dated 12th October, 2000.

The Commission shall dispose of the application expeditiously. It shall be open to the parties to raise all such pleas as are available to them in law during trial of the application by the Commission.

Nothing said hereinabove shall be construed as any expression of opinion on the merits of the claim of the appellant.

The appeals succeed and are allowed in the terms indicated above. No costs.

