

A.F.R.

Judgement Reserved on 06.09.2018

Judgement Delivered on 24.09.2018

Court No. - 1**Case :- CONTEMPT APPEAL No. - 5 of 2018****Appellant :-** Suhas L.Y., District Magistrate**Respondent :-** Taulan Singh @ Vijay Bahadur Singh**Counsel for Appellant :-** Anoop Trivedi**Counsel for Respondent :-** Pankaj Rai, Anshuman Vidhu Chandra**Hon'ble Ramesh Sinha, J.****Hon'ble Dinesh Kumar Singh-I, J.**

1. Heard Sri Anoop Trivedi, learned counsel for the appellant and Sri Anand Prakash Srivastava, Advocate, holding brief of Sri Anshuman Vidhu Chandra who is also present along with him, learned counsel for the sole respondent.

2. This Contempt Appeal has been filed against the order dated 28.05.2018 passed in Contempt Application (Civil) No. 2203 of 2018 (Taulan Singh @ Vijay Bahadur Singh Vs. State of U.P. and others) under Section 19 of the Contempt of Courts Act, 1971 wherein prayer is made to set-aside the order dated 28.05.2018 passed in Contempt Application No. 2203 of 2018 and consign the contempt petition to record.

3. The submissions made in the memo of Appeal are that the Writ No. 17471 of 2016 (Taulan Singh @ Vijay Bahadur Singh Vs. State of U.P. and others) was disposed of vide order dated 17.4.2017 with a direction to the District Magistrate to examine the original records keeping in mind the law laid down by Division Bench of this Court in case of Shivram Singh Vs. State of U.P. and Others. This Court had also referred in the said order to the law laid down by the Hon'ble Apex Court in the case of **State of Assam Vs.**

Bhaskar Jyoti Sharma (2015) 5 SCC 321. The said Contempt Petition No. 2203 of 2018 was filed alleging that the Opposite Party in the Contempt Petition had not passed any order on the representation of the petitioner in pursuance of the Writ Court's order dated 17.04.2017 and the same was still pending although in compliance of the said order dated 17.04.2017, the appellant had already passed an order on 23.01.2018 rejecting the claim of the Writ Petitioner, therefore, the said order dated 17.04.2017 of the Writ Court had already been complied with. Thereafter, the contempt court passed an order dated 28.05.2018 (impunged order) whereby the appellant was directed to file his personal affidavit observing as follows:-

“From the instructions placed on the record today, which for the purposes of identification are marked as 'X', the Court notes that the Collector states that there is no record or evidence of the alleged transfer of surplus land to the Allahabad Development Authority. The Court finds itself unable to appreciate the stand so taken by the Collector since if there were no records of a transfer to Allahabad Development Authority then recital to that effect could not have possibly appeared in his order of disposal. The Court is further constrained to observe and note that in the order of disposal passed by the Collector the stand taken is that the land had been transferred to the Authority prior to the promulgation of the 1999 Act and the appointed date prescribed thereunder. This positive recital is not explained even today nor does the Collector rely upon any evidence in support of this proceeding. In fact and to the contrary the Court notes from the instructions provided by him to Sri Upadhyay today that he admits that no evidence or material of the transfer of possession exists. The Court also takes note of a decision rendered by a Division Bench of this Court in Lalji Vs. State of U.P. 2018 (5) ADJ 566 in which too the stand taken was that the land had been transferred to the Allahabad Development Authority prior to 18 March 1999, the cut off date as prescribed under the 1999 Act. Even the Division Bench had found that no material existed or was brought on record to establish a transfer of possession in light of the statutory provisions. The Court further notes that apart from the above, the Collector alludes to no other material to establish that the land is in the possession of the ADA. It is evident that the disclosures made by the Collector Allahabad have been less than candid and prima facie are not borne out from the record.

Consequently, the opposite party shall file his personal affidavit and

explain why further action be not taken against him.“

4. Thereafter, the appellant constituted a committee of four officers to submit a meticulous report and after thorough examination of the entire record, the committee submitted its report on 13.07.2018 clearly negating claim of the petitioner and on the basis of record, an assessment/evaluation made by the committee, the appellant proceeded to test the facts of the case in the light of judgement of the Hon'ble Apex Court in the case of **State of Assam Vs. Bhaskar Jyoti Sharma** as well as that of this Court's judgement in **Shivram Singh's case** and, thereafter, the appellant passed an order dated 13.07.2018 rejecting the claim of the petitioner. Further it is mentioned that the said report of the committee, the documents relied upon by the committee and the order passed by the appellant had been brought on record in the contempt proceedings by means of an affidavit of the appellant dated 15.07.2018 but when the matter was taken up on 16.07.2018, the Contempt Court observed that till the order dated 28.05.2018 holds the field, the stand taken by the appellant while rejecting the claim of the petitioner could not be accepted and, hence, granted liberty to the appellant to file a review petition for getting the order dated 28.05.2018 reviewed. Further, it is mentioned that, thereafter, the appellant sought legal advise pursuant to which, he challenged the order dated 28.05.2018 passed by the Contempt Court on the grounds that the order of Writ Court dated 17.04.2017 stood complied with the moment the District Magistrate, Allahabad had passed the order after examining the records of the case, therefore, the appellant had already complied with the order dated 17.04.2017 of the Writ Court, rejecting the petitioner's claim. There was no reason left for drawing the contempt proceedings as he had already passed order dated 23.01.2018 and 13.07.2018 disposing of the representation of the petitioner in compliance of the Writ Court's order dated 17.04.2017. The Contempt Court ought to have consigned the petition but instead of doing that, it has observed that the same was not possible till the order dated 28.05.2018 remained in force. Further, it is mentioned that the Contempt Court could not have gone beyond the order of Writ Court and that there was no scope for the Contempt Court to test the validity of the order dated 13.07.2018 passed by the appellant, therefore, if proceedings of the Contempt Petition are allowed to continue, the appellant

will suffer irreparable loss and the same needs to be set-aside.

5. From the side of respondent, written argument has been submitted stating that the appellant asserts that the possession of surplus land was transferred to Allahabad Development Authority, however, no details have been given by him in respect of the said transfer having taken place. The Contempt Court's attention could not be drawn to any possession memo in terms of which, the transfer of the alleged surplus land had been effected, to A.D.A. By the judgement rendered by the Division Bench of this Court, District Magistrate was required to consider and pass an order dealing with the claim of the applicant, who was seeking benefit of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. When the matter was initially taken up, the instructions were directed to be obtained from the Collector, Allahabad pursuant to which, the Collector (appellant) placed on record an order dated 23.01.2018 purporting to dispose of the claim of the respondent by holding that the possession of the land declared as surplus, had been transferred to Allahabad Development Authority prior to the appointed date prescribed under the 1999 Act. After having perused the record of the proceedings, the Court noted that although the appellant asserted that the possession of the surplus land has been transferred to Allahabad Development Authority but no details were given, thereof, as to when the said transfer took place. The Court's attention had not been drawn to the possession memo in terms of which, transfer had been effected to A.D.A. Learned Additional Standing Counsel had prayed for time to place the relevant record which was granted, even after that, the Court noted that appellant had stated that there was no record or evidence of the alleged transfer of aforesaid land to the A.D.A. and, hence, the Court was unable to appreciate the stand taken by the appellant since, there was no record of transferring the surplus land to A.D.A. In these circumstances, the Court was constrained to observe that the stand taken by appellant that land had been transferred to the Allahabad Development Authority prior to promulgation of the 1999 Act, could not be supported by the appellant by any evidence rather, to the contrary, as per the instructions provided by the appellant to the learned Additional Chief Standing Counsel, he had admitted that no evidence or material of transfer of possession existed. The Court further

noted that the disclosure made by the Collector, Allahabad regarding transfer of land to Allahabad Development Authority was found to be less than candid not borne out from the record. Consequently, the appellant was directed to file personal affidavit explaining as to why further action should not be taken against him and the matter was posted for 16.07.2018 to appear and show cause. Further, it is mentioned that an affidavit of compliance was filed by learned counsel for the appellant seeking time to file appropriate application for clarification/modification of order dated 28.05.2018 to enable him to do needful in the matter and the time was allowed for the same.

6. Learned counsel for the respondent vehemently argued that the impugned order fell in the category of interlocutory order, hence, no appeal would lie against the said order stating that there may be many interlocutory orders passed in the same proceedings by the Court. It could not be the intention of legislature to provide for an appeal as a matter of right for each and every such order passed in a proceeding. Further it is argued that mere initiation of proceedings for contempt by issuing notice on the prima-facie view that the case was a fit case for drawing of the proceedings, does not decide any question. Further it is argued that the right of appeal will be available under Section 19 of the Act only against the decision/ order of the High Court passed in exercise of its jurisdiction to punish for contempt. By the impugned interlocutory order in the Contempt Application, the learned Single Judge has not imposed any punishment on the alleged contemnor/appellant, by issuing show cause notice to him. Hence the Appeal is not maintainable and should be dismissed at the very stage of admission.

7. He has placed reliance upon the judgement of **Midnapore Peoples' Co-op Bank Ltd. Vs. Chunilal Nanda 2006 (5) SCC 399**. In this case, the respondent was an employee of the appellant bank and appellant nos. 2 and 3 were its Chairman and Secretary-in-Charge. The respondent was placed under suspension pending initiation of disciplinary proceedings. At his instance, the High Court directed the bank to issue charge-sheet and also directed the Inquiry Officer to conclude the inquiry within time specified. Consequent to said enquiry, the respondent was found guilty. The respondent had filed another Writ Petition for quashing of the enquiry

proceedings alleging bias against the enquiry officer. On 09.04.1997, the Single Judge of the High Court allowed the Writ Petition and directed the Chairman of the bank to appoint someone who was not a member of the Bank's Board of Directors as the Enquiry Officer. He further directed that said enquiry officer should conduct enquiry do-novo and submit a report within four months from the date of first sitting. Consequently, Enquiry Officer was appointed, who started a fresh enquiry. As the enquiry could not be completed within four months from the date of first sitting, the respondent moved a contempt application. The Chairman of the Bank, the enquiry officer, the previous enquiry officer and the Secretary in-charge of the Bank were impleaded as respondents in the said Contempt Petition. On perusing the records, the Single Judge formed the view that the enquiry officer had not proceeded with due diligence, he, therefore, made an order dated 20.11.1998 directing that; (i) a rule be issued against the enquiry officer requiring him to show cause as to why he should not be punished for committing contempt; (ii) enquiry officer having by his conduct, disqualified himself to be the enquiry officer and should cease to be the enquiry Officer and that the respondents would be free to appoint a new enquiry officer; (iii) the respondent therein (petitioner before the High Court) should be reinstated in service with continuity of service and back wages and that he should not be prevented in any manner from discharging his duties. It is further directed that his suspension should be deemed to have been revoked.

8. The following questions arose for consideration in this case; (i) Where the High Court in a contempt proceeding, renders a decision on merits of a dispute between the parties, either by an interlocutory order or final judgement, whether the same is appealable under Section 19 of the Contempt Of Court's Act 1971? if not what is the remedy for the person aggrieved? (ii) Where such a decision on merits is rendered by an interlocutory order of a learned Single Judge, whether an intra-court appeal is available under clause 15 of the Letters patent? (iii) whether in the present contempt proceedings, the Court could direct; (a) that the employer should reinstate the employee forthwith; (b) that the employee should not be prevented from discharging his duties in any manner; (c) that the employee should be paid all arrears of salary; (d) that the enquiry officer should cease

to be enquiry officer and the employer should appoint a fresh enquiry officer; (e) that the suspension order should be deemed to have been revoked.

9. Allowing the Criminal Appeal No. 1727 of 2002 and dismissing the S.L.Ps. (C) Nos. 13045-46 as infructuous, the Hon'ble Supreme Court held regarding point no. (i) and (iii):-

The answer to point (i) is that the following position emerges from case law in regard to appeals against orders and contempt proceedings: (a) an appeal under Section 19 is maintainable only against order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt i.e, an order imposing punishment for contempt (b) neither an order declining to initiate proceedings for contempt nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor is appealable under Section 19. In special circumstances, they may be open to challenge under Section 136 of the Constitution; (c) in a proceeding for contempt, the High Court can decide whether any contempt of court was committed, and if so what should be the punishment and matters incidental there to. **In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties;** (d) **Any direction issued, or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of “jurisdiction to punish for contempt” and, therefore, not appealable under Section 19. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt in which event, an appeal under Section 19 can also encompass the incidental or inextricably connected direction;** (e) **If the High Court decides an issue or makes any direction relating to merits of dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intera-court appeal,(if the order was of a Single Judge and there was a provision for an intra appeal), or by seeking Special Leave to Appeal under Section 136 of the Constitution (in other cases).**

10. Citing the above case law, it is contended by the learned counsel for the respondent that in the case at hand, the learned Single Judge has merely issued notice to the opposite party (appellant) to file his personal affidavit to explain why further action be not taken against him, therefore, the said order is an interlocutory order against which the instant appeal would not be maintainable.

11. The other case law relied upon by the learned counsel for the respondent is a judgement delivered by a Division Bench of this Court dated 9.9.2015 in Contempt Appeal No. 4 of 2014, **Anil Kumar Gupta, Principal Secretary, Home and another Vs. Pawan Kumar Singh and 22 others** wherein the attention is drawn of Court to last paragraph of the judgement which is as follows:-

“By the impugned order, the appellants have merely been summoned in the Court. The impugned order does not even say anything that on the date fixed, charges would be framed against them. Even if assuming that their personal appearance was required for framing of charges against them in the contempt proceeding, but there is absolutely no indication that by the impugned order, the learned Single Judge has imposed any punishment on the appellants for contempt. Hence, in view of the well settled legal position as discussed above, we have no doubt in holding that the impugned order is an interlocutory order against which an appeal under Section 19 of the Contempt of Courts Act, 1971 is not maintainable. Therefore, the present appeal is liable to be dismissed as not maintainable. However, the appellants are not remediless and they are at liberty to avail any other remedy available to them under law, if so advised, in wake of the law laid down by the Apex Court in Midnapore's case (supra), wherein it has been held that if the High Court, in a contempt proceeding, decides an issue or makes any direction, relating to the merits of the dispute between the parties, the aggrieved person is not without remedy and he can challenge it by means of intra court appeal if the order is of Single Judge and by seeking special leave to appeal under Article 136 of the Constitution of India in other cases, but not by way of filing an appeal under Section 19 of the Contempt of Courts Act.

Accordingly, the appeal is dismissed.

No order as to costs.”

Relying upon this, learned counsel for the respondent stated that the appeal deserves to be dismissed as not maintainable in the light of above law.

12. It is evident from the perusal of the above judgement that the Division Bench of this Court held that the appellants were merely summoned by the Court by the impugned order which did not say anything

that charge would be framed against the appellants and there was no indication that the learned Single Judge was going to impose any punishment on the appellants for contempt and, hence, it was held that the said order was an interlocutory order, against which appeal was not maintainable.

13. Learned counsel for the respondent also placed reliance upon the case of **Purushottam Das Goel Vs. B.S. Dhillon, Justice (1978) 2 SCC 370**. In this case, it has been held by the Hon'ble Apex Court that an order appealed against under Section 19 must be such that decides some bone of contention raised before the High Court effecting the right of the party aggrieved. Mere initiation of the proceedings for contempt by the issuance of the notice on the prima-facie view that the case is a fit one for drawing up the proceeding, does not decide any question. The matter has to be decided either finally or, may be even at an earlier stage. An order is made which does decide the contention made by the alleged contemner asking the High Court to drop the proceeding. It is neither possible, nor advisable to make an exhaustive list of the type of orders which may be appealable to the Supreme Court under Section 19. A final order, surely will be appealable even orders made at some intermediate stage in the proceeding may also be appealable under Section 19.

14. He has also relied upon the judgement of **D.D. Khanna and others Vs. Dr. Smt. Bharti Raj 1994 AWC 875, Allahabad**. In this case it has been held by this Court that an order initiation proceeding for contempt by issuance of notice under Section 17 of the Act, is not an appealable order and, accordingly, the appeal was dismissed as not maintainable.

15. Further reliance is placed upon the judgement of **D.N. Taneja Vs. Bhajan Lal 1988 3 SCC 26**. In this case, it has been held by the Apex Court that an appeal will lie under Section 19(1) only when High Court makes an order or decision in exercise of its jurisdiction to punish for contempt. The High Court exercises its jurisdiction or power as conferred upon it by Article 215 of the Constitution when it imposes a punishment for contempt, when High Court does not impose any punishment for contempt on the alleged contemner, it does not exercise its jurisdiction or power to punish the contemner under article 215 of the Constitution.

16. Further reliance has been placed upon **Barada Kanta Mishra Vs. Orissa High Court (1975) 3 SCC 535**, in which it is held that right of appeal is a creature of statute and the question whether there is a right of appeal or not will have to be considered on an interpretation of the provision of the statute and not on the ground of propriety or any other consideration. Any person who moves the machinery of the Court for contempt, only brings to the notice of the Court certain facts constituting Contempt of Court. After furnishing such information, he may still assist the Court but it must always be borne in mind that in a contempt proceedings, there are only two parties i.e. the Court and the contemner. Aggrieved party under Section 19(1) can only be the contemner who has been punished for Contempt of Court.

17. Lastly reliance has been placed upon **Environment Awareness Forum Vs. State of Jammu and Kashmir 1999 A.I.R. S.C. 1495**, in this case, despite knowing that while Katha is a minor forest produce, Khair is a timber and that the order of the Supreme Court dated 4.03.1997 was not applicable to Khair trees and vide orders of the Court dated 10.05.1996 and 12.12.1996 ban was placed on felling of various trees including Khair trees yet the State Government officials allowed the felling of Khair trees by private company for extraction of Katha. It was held by the Hon'ble Apex Court that prima-facie, there was a deliberate attempt to circumvent the order of Supreme Court and there was a wilful breach of the order of the Court, hence, notices were issued to the officers concerned to show cause as to why the Contempt Proceedings be not initiated against them.

18. In view of the above rulings, it is apparent that no doubt as regards appeal lying under Section 19(1) of the Act against a final order. But there is no discrepancy but as per the citation relied upon by the learned counsel for the appellant i.e. **Purshottam Das Goyal case (Supra)**, it is evident that even an order which is passed at intermediate stage in the contempt proceedings may be appealable under Section 19(1) of the Act which is the case here involved as the order which has been impugned, has been passed by the Contempt Court at intermediate stage of the proceedings.

19. As against the above, learned counsel for the appellant has relied upon **R.N. Dey and others Vs. Bhagyabati Pramanik and others (2000) 4 SCC**

400. In this case, the collector made an order under the Land Acquisition Act 1894 for acquisition of 39.02 acres of land believed to be the property of the respondents. Initially the compensation rate was fixed at Rs. 27,126/- per hectare then it was raised to 4,23,500/- per hectare. The State filed an appeal before the High Court against the enhancement and also an application for stay of the payment. The respondent claimants filed an application seeking payment of compensation. The Appellate Court directed an ad-hoc payment of Rs. 1,00,000/- which was made later on by another interim order dated 15.5.1992. High Court directed that appellants pay three quarters of Rs. 800/- per cottah the rate admitted by appellant. At this stage, the startling information that the respondents had no right, title or interest in the acquired land at all, was brought to the notice of the appellants. It appeared that the suit land had already vested in the state under the Estates Acquisition Act, 1953 and that the intermediaries had been paid compensation under that Act. The State contending that the respondents had obtained the award by fraud, moved an application for vacation of the High Court's order for payment. The respondent claimants on the other hand filed an application contending that the officers of the State were in contempt as they had not complied with the order of the High Court. When notice was issued to them, the appellants appeared and tendered an unqualified apology which the Court accepted. The High Court, then, by the same order directed the appellants to deposit with the Registrar the compensation money payable, however, the High Court did not pass an order on an application moved by the Collector, seeking vacating of the rule issued in the Contempt of Court proceedings. The High Court directed that this application would be heard along with the first appeal. In the Appeal before the Supreme Court, it was contended on behalf of the appellants that in the circumstances, there was no basis for the contempt application and that the High Court ought not to have issued rule in the matter at all. The respondent claimants, instead of filing such an application, could have sought the execution of the award in their favour, as there was no order staying the judgement and award of the Land Acquisition Judge and the first appeal of the appellants was still pending before the High Court. On behalf of respondents, it was contended that the appellants having tendered unconditional apology, no longer had the right to appeal and that the

Supreme Court ought not to interfere as matters are still at an interlocutory stage.

20. Allowing the appeal, the Hon'ble Supreme Court held;

The weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of a decree or implementation of an order for which alternative remedy in law is provided for, discretion given to the Court is to be exercised for maintenance of the Court's dignity and majesty of law. Further an aggrieved party has no right to insist that the Court should exercise such jurisdiction as contempt is between a contemnor and the Court. It is true that in the present case, the High Court has kept the matter pending and has ordered that it should be heard along with the first appeal but at the same time, it is to be noticed that under the coercion of contempt proceedings, appellants cannot be directed to pay the compensation amount which they are disputing by asserting that the claimants were not the owner of the property in question and that decree was obtained by suppressing the material fact and by fraud. Even presuming that the claimants are entitled to recover the amount of compensation as awarded by the trial court as no stay order was granted by the High Court, at the most they are entitled to recover the same by executing the said award wherein the State can or may contend that the award is a nullity in such a situation, as there was no wilful or deliberate disobedience of the order, the initiation of contempt proceedings was wholly unjustified.

21. Further it is held that the decree holder who does not take steps to execute the decree in accordance with the procedure prescribed by law should not be encouraged to invoke Contempt jurisdiction of the Court for non satisfaction of the money decree. In land acquisition cases where a decree is passed the State is in the position of judgement debtor and, hence, the Court should not normally lend help to a party who refuses to take legally provided steps for executing the decree. At any rate, the Court should be slow to haul up officers of the Government for contempt for non satisfaction of such money decree. Further it is held that when the Court either suo-moto or on a motion or a reference, decides to take action and initiate proceedings for contempt, it assumes jurisdiction to punish for contempt. The exercise of jurisdiction to punish for contempt commences

with the initiation of proceeding for contempt and if the order is passed not discharging the rule issued in contempt proceedings, it would be an order or decision in exercise of its jurisdiction to punish for contempt. Against such order, appeal would be maintainable.

22. Relying upon the above case law, learned counsel for the appellant has vehemently argued that in the garb of present contempt petition filed by the respondent, the respondent desires restoration of the land which had been transferred to the Allahabad Development Authority claiming himself to be still in possession thereof. Further it is argued that the plea of the learned counsel for the respondent that this appeal is not maintainable, is not tenable because by issuing the direction to the appellant by the impugned order dated 28.05.2018 to file his personal affidavit as to why action be taken against him, is quite indicative of the fact that the learned Single Judge has formed opinion that the appellant has failed to dispose of the representation of the respondent in the light of directions given by the Writ Court in Writ C No. 17471 of 2016 whereby the appellant was directed two weeks' time to decide an application of the respondent after examining the original records, keeping in mind the law laid down by Division Bench of this Court in case of Shivram Singh Vs. State of U.P. and others. In pursuance of this, the appellant had already decided the representation of the respondent which has been found to be less than candid by the Contempt Court in the impugned order only because the appellant is found to have not produced material/evidence to establish that the land was given in possession of the Allahabad Development Authority and it was also recorded in the impugned order that the appellant had admitted that there was no evidence or material of the transfer of possession in existence.

23. In view of the learned counsel for the appellant, these observations by the learned Single Judge in Contempt Proceedings clearly indicate that the disposal made by the appellant of the representation of the respondent has not been found to have been done on the basis of merits by the learned Single Judge although it was beyond jurisdiction of the learned Single Judge to get into the merits of the impugned orders. If there was any infirmity in the impugned orders, legal remedy available under law could have been availed by the respondent and that by filing Contempt Proceedings, the

appellant could not have been coerced into passing an order in favour of the respondent which appears to be the intention of the Respondent No.2 in preferring the Contempt proceedings.

24. First of all, we would like to take up the position of law as regards the maintainability of the present appeal. It is evident from the law relied upon by the learned counsel for the respondent cited above in **Mednapur Peoples Cooperative Bank Limited Case (Supra)** wherein it is held that in Contempt Proceedings, it is not appropriate to adjudicate or decide any issue relating to merits of the dispute between the parties because if the High Court decides an issue or makes a direction relating to the merits of the dispute in contempt proceedings, the aggrieved person would be left with no remedy and in that case such an order would be open to challenge in an intra-court appeal. Therefore, in view of the law which has been relied upon by the learned counsel for the respondent himself, it is absolutely clear that in the case at hand by the impugned order, it is clearly apparent that the learned Single Judge was not satisfied by the impugned orders passed by the appellant whereby the representation of the respondent had been disposed of, for want of the supporting evidence being placed before the learned Single Judge and despite this fact having been brought to the knowledge of the learned Single Judge, he has chosen to direct the appellant to file his personal affidavit by the impugned order as to why further action be not taken against him, which clearly suggests that the merit of the impugned order has been touched upon by the learned Single Judge which does not appear to be the domain in a contempt proceedings and, therefore, the appeal under Section 19 would be admissible/maintainable.

25. As regards the merits of the case, we will find that by the order dated 17.04.2017 passed, by the appellant, representation of the respondent had been disposed of, which was rejected after taking into consideration the relevant law and, thereafter, for deciding the representation of the respondent, a committee was also constituted by the appellant for going through the entire relevant documents and submit a report which comprised four officers and the said committee after having meticulously studying the matter, submitted its report on 13.07.2018 which was deeply scrutinized by the appellant, where-after he passed an order dated 13.07.2018 again

rejecting the representation of the respondent. Therefore, it is evident that the appellant had made all possible efforts to finally dispose of the representation of the respondent in accordance with law but feeling aggrieved, the respondent approached the Contempt Court wherein the impugned order dated 28.05.2018 had been passed by the learned Single Judge showing dissatisfaction with the said orders touching the merits which does not appear to be within the domain of the learned Single Judge and we therefore, accordingly, convinced that the impugned order deserves to be set-aside and is, accordingly set-aside and further the Contempt proceedings drawn against the appellant are, accordingly, dropped.

26. Let the Contempt Appeal No. 2203 of 2018 be consigned to record.

27. Thus, the Contempt Appeal filed by the appellant succeeds and stands allowed.

(Dinesh Kumar Singh-I, J.) (Ramesh Sinha, J.)

Order Date:- 24.09.2018

A. Mandhani