



NON-REPORTABLE

CIVIL APPEAL NO. OF 2024
[Arising out of SLP(C) No. 10098 of 2023]

DEEPAK KUMAR AND ANOTHER **...APPELLANT(S)**

DEVINA TEWARI AND OTHERS ...RESPONDENT(S)

B.R. GAVAI, J.

1. Leave granted.
2. We have heard Ms. Aishwarya Bhati, learned Additional Solicitor General of India (ASG) appearing on behalf of the appellants and Shri Sanjeev Kumar Singh, learned counsel appearing for contesting respondent/Respondent No.1.
3. Learned ASG appearing on behalf of the appellants submits that as a matter of fact, the Special Appeal Defective being No. 197 of 2022 filed by respondent No.1 before the High Court of Judicature at Allahabad, Lucknow Bench challenging the order passed by the learned Single Judge of

the High Court dated 5th January 2022 in Contempt Application (Civil) No. 2609 of 2015 preferred by respondent No.1, itself was not tenable. It is submitted that by the said order, the learned Single Judge had held that the appellants have not committed contempt of the order of the learned Single Judge passed on 22nd April 2015, and therefore in view of the decision of this Court in the case of **Midnapore Peoples' Coop. Bank Ltd. and Others v. Chunilal Nanda and Others**¹, the appeal was not tenable.

4. Per contra, Shri Sanjeev Kumar Singh, learned counsel appearing for contesting respondent/Respondent No.1, submits that the learned Single Judge of the High Court while deciding the contempt application has gone into the merits of the matter and therefore in view of paragraph 11, clause V of the judgment in **Midnapore Peoples' Coop. Bank Ltd. and Others** (supra), the appeal was very much tenable.

5. This Court in the case of **Midnapore Peoples' Coop. Bank Ltd. and Others** (supra) has observed thus:-

“11. The position emerging from these decisions, in regard to appeals against orders in contempt

¹ (2006) 5 SCC 399 : 2006 INSC 367

proceedings may be summarized thus :

I. An appeal under section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. 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 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. 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 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under section 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever

reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).”

6. From the perusal of the order passed by the learned Single Judge it is clear to us that by the said order the learned Single Judge had in unequivocal terms held that no case for contempt was made out of the judgment and order dated 22nd April 2015 and as such dismissed the said contempt application preferred by respondent No.1. As such, in view of clause II of paragraph 11 of the judgment of this Court in ***Midnapore Peoples’ Coop. Bank Ltd. and Others*** (supra), the appeal itself was not tenable.

7. The reliance placed by the learned counsel for the respondent No.1/employee on Clause V, in our view, is not well pressed. There is no adjudication or direction with regard to the merits of the matter by the learned Single Judge in the order dated 5th January 2022. In any case, in

view of a specific bar, the remedy available to Respondent No.1, if any, was to challenge the order of the learned Single Judge by way of special leave petition.

8. On this short ground, we are inclined to allow the appeal. The impugned order is quashed and set aside and the appeal filed by the respondent No.1/employee before the Division Bench of the High Court stands dismissed. Ordered accordingly.

9. In the event Respondent No.1 files special leave petition before this Court challenging the order of the learned Single Judge dated 5th January 2022, she would be entitled to benefit of Section 14 of the Limitation Act, 1963 for the period during which the proceedings were pending before the Division Bench of the High Court and before this Court.

10. Pending application(s), if any, shall stand disposed of.

.....**J.**
(B.R. GAVAI)

.....**J.**
(K.V. VISWANATHAN)

NEW DELHI;
NOVEMBER 26, 2024.