

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.410 OF 2017
WITH
CIVIL REVISION APPLICATION NO.411 OF 2017
WITH
CIVIL REVISION APPLICATION NO.412 OF 2017

Food Corporation of India ..Applicant.

V/s.

Kartik Enterprises & Co. ..Respondent.

Mr.P.K. Sharma for the applicant.

None for the respondent.

CORAM : G.S.KULKARNI, J.

DATED : 31 July 2017

P.C.:-

Not on board. Taken on board on the application by the
learned for the applicant.

2. Heard learned counsel for the applicant. There is a
common challenge in these applications which is to orders dated 2

May 2017 passed by the appellate bench of the Small Causes Court at Mumbai whereby the miscellaneous applications filed by the applicant praying that the appeals filed by the applicant be allowed on a preliminary ground namely that the respondent / plaintiff is not a registered partnership firm were rejected.

3. The appellate bench in dismissing the said applications of the applicant observed that the contentions as urged and the grievance as sought to be canvassed on behalf of the applicant can very well be considered at the final hearing of the appeals. It is this order which is the subject matter of challenge in these Civil Revision applications.

4. I have heard learned counsel for the applicant. Learned counsel for the applicant has drawn my attention to ground No.2 to contend that the issue in regard to the registration of respondent-plaintiff firm goes to the root of the dispute. It is contended that the learned trial Judge overlooked this basic issue. It is submitted that thus the hearing of the appeals on merits can be avoided by the

learned appellate bench and the appeals can be decided on this short issue. It is the submission that the applicant is a public corporation and deciding the said issue of maintainability of the suit by the appellate bench without touching the merits of the appeal, would entail to the benefit of the parties, suffice the purpose of the appeal, as also it would save judicial time and save the public corporation from unnecessary costs.

5. With the assistance of learned counsel for the applicant, I have gone through the impugned orders. I have also perused the grounds raised in the applications. Having considered the plea of the applicant, I am of the opinion that the issue of non registration of the plaintiff firm can very well be considered by the appellate bench while deciding the appeals. I am thus in complete agreement with the impugned order passed by the learned appellate bench that this issue can be gone into by the appellate bench at the final hearing of the appeals. From what is stated by the learned counsel for the applicant referring to the subsequent order, it appears that the appeals are already posted for final hearing. As the issue as raised on

behalf of the applicant would be taken into consideration at the hearing of the appeal, no prejudice would be caused to the applicant. Accordingly, no case is made out for interference in these Civil Revision Applications. Civil Revision Applications are accordingly dismissed. No costs.

6. The learned appellate bench shall make an endeavour to take up the hearing of the appeals which are already listed and decide the same as early as possible preferably within a period of three months from today. All contentions of the parties on merits are expressly are kept open.

(G.S.KULKARNI, J.)