REPORTABLE

2023 INSC 1059

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2669 OF 2013

M/S NORTH EASTERN CHEMICALS INDUSTRIES (P) LTD.& ANR. ...APPELLANT(S)

VERSUS

M/S ASHOK PAPER MILL(ASSAM) LTD. & ANR. ...RESPONDENTS

J U D G M E N T

SANJAY KAROL J.,

1. The questions to be determined in this *lis* are:

A) Whether Article 116 of the Limitation Act 1963, applies to proceedings under the Jogighopa (Assam) Unit of Ashok Paper Mills Limited (Acquisition Transfer of Undertaking) Act, 1990.

B) Contingently, if the Limitation Act does not apply then, in the absence of Limitation being placed within the text of the Statute in question, could the Appeal filed against the Order

of the Commissioner of Payments be held as maintainable having been filed after a period of nearly three years from the said order?

THE APPEAL

2. This Civil Appeal assails a judgement of the Gauhati High Court passed in CRP No. 263 of 2009 dated 21 July 2011, by which the Civil Revision Petition against the Order dated 14 May 2009 passed by the learned District Judge, Kamrup, Gauhati in M.A Case No. 18/2008 stands allowed.

BACKGROUND OF FACTS AND PREVIOUS PROCEEDINGS

3. The Claimant-Appellants[1] and Respondents[2] are both companies registered under the Companies Act, 1956. The Appellant had received Orders to supply certain goods to the Respondents. After doing so, they raised certain bills which were only partly paid by the Respondents.

3.1 Subsequently, the Respondents was declared "a sick company" under the Sick Industrial Companies (Special Provisions) Act, 1935. For the necessitated rejuvenation of the

[1] Respondents before the High Court. Hereinafter referred to as Claimant-Appellant.
[2] Review Petitioner before the High Court

industry, the Government of Assam promulgated the Jogighopa (Assam) Unit of Ashok Paper Mills Limited (Acquisition Transfer of Undertaking) Act, 1990[3].

3.2 The Appellant filed its claim under Section 16 of the Jogighopa Act for a sum of 1,58,375/- along with interest-against which the Commissioner of Payments awarded[4] the principle sum but no interest. The award of such amount was communicated to the Claimant - Appellants vide forwarding letter dated 16 July 1997[5]. By letter dated 16 July 1997[6], the Claimant - Appellants, under protest, accepted the payment of principal amount in full. They raised grievance in respect of non-payment of any interest for the periods of January 1983 to March 1993 and from March 1993 to the date of payment, i.e., 16 July 1997. In such letter, the total amount of interest claimed was 21,49, 698/-at 18% interest per annum.

3.3 Aggrieved by the non-payment of such interest claimed, a Writ Petition[7] before the High Court was filed seeking direction to

[3] Hereinafter referred to as the Jogighopa Act
[4] In Claim Case No. CP/Cat.VI/91/153. By Order dated 30 October 1994
[5] Not on record. The date of such forwarding letter is as reflected in Appellants' response thereto.
[6] Bearing Ref- NECIL/97-98
[7] Bearing No. 4210 of 1997. Order Dated 10 November 1997

the Commissioner to consider an award interest on the principal amount due. Such a request without adjudication of rights of the parties was acceded to by the High with a direction to consider the claims within a period of 3 months.

3.4 The Commissioner upon consideration of the request for grant of interest on delayed payment, amounting to 6,83,688/-[8] granted the same. Still aggrieved thereby, the claimants once again knocked the doors of the High Court[9].

3.5 In such proceedings, the High Court in observing that the entitlement of interest of the claimant company could not be questioned, referred the matter back to the Commissioner of Payments to calculate the interest payable afresh, in accordance with Sections 4 and 5 of the Interest on Delayed Payments to Small-Scale and Ancillary Industrial Undertaking Act 1993[10]. It was directed that any additional interest, if found payable, shall be paid within 60 days of the Order.

[8] Made vide letter dated 9 August 2001 by Managing Director of the Appellant. The same is not on record. The record does show a representation dated 9 May 2001 in which the claim of interest on delayed payment is worth 15, 93,957. However, the Commissioner's letter of award records that to have been an error in calculation.
[9] Writ Petition No. 4520 of 2002. Order dated 19 May 2004
[10] For short, "the 1993 Act"

3.6 Against the said Order, the Respondents – non-claimants herein filed Review Application[11]. The ground of assail was that the amount payable against the bills pending, have already been paid and therefore no ground for re-calculation of interest is made out. The High Court, in consideration of the 1993 Act under which the interest was claimed held that, the interest calculable and due would only be from 23rd September, 1992 as the Act was brought into force on such date.

3.7 On further remand[12], the Commissioner recorded lack of funds to consider the request any further and stated that upon further recalculation, as it is, no further amount payable was found.

3.8 Subsequently, the Claimant - Appellants filed an appeal thereagainst as also, moved an Application before the District Judge, Guwahati under Section 5 of the Limitation Act 1963 for condonation of delay in filing Appeal No. 18/2008.

3.9 It was observed by the learned District Judge vide Order dated 14 May 2009 that since no specific time has been provided for preferring an Appeal upon dissatisfaction with the decision of

[11] Review Application 91 of 2001
[12] Order bearing No- DI(V)APM/NEC/199/2005/26; Dated 13 April 2005

the Commissioner, before the Principal Civil Court, such an Appeal is fit to be admitted.

3.10 It is against this Order that the Order impugned before us in Civil Revision[13] came to be passed.

THE IMPUGNED JUDGEMENT

4. The Learned Single Judge in Civil Review, examined the Limitation Act, 1963 along with various decisions rendered by this Court and concluded, after detailed consideration that since an Appeal under Section 22 (8) has been provided to a Principal Court of Civil jurisdiction without being restricted by a period of Limitation it would be treated as an Appeal provided under the Code, that is the Code of Civil Procedure[14], to a Court subordinate to that of a High Court and to such an Appeal, the period of Limitation as prescribed under Article 116 of the Limitation Act, 1963 would apply. In the instant facts therefore, the conclusion was that the Appeal was erroneously admitted by the District Judge and the same to have been dismissed as not maintainable on the ground of limitation.

[13] Petition No. 263/2009
[14] Hereinafter referred to as "The Code"

SUBMISSIONS ON BEHALF OF THE PARTIES

5. We have heard at great length, the Learned Senior Counsel appearing for both parties, Mr. Parthiv K Goswami for the Claimant - Appellants and Mr. Rajshekhar Rao for the Respondent and have also perused the written submissions filed.

A. Claimant - Appellants

6. It is submitted that, the Learned Single Judge's reliance on **Vidyacharan Shukla v. Khubchand Baghel & Ors.**[15] (Five-Judges Bench) to arrive at the conclusion that the Appeal under Section 22(8) would be covered by Article 116 of The Limitation Act, 1963 was mistaken as, the majority view therein was that to attract Article 156 of The Limitation Act 1908, the corresponding Section to Article 116 of the present Act, it was not necessary that the Appeal should be conferred by the Code itself. It would be sufficient if the procedure governing the Appeal would be according to the Code.

6.1 Unlike the fact situation in **Vidyacharan Shukla** (supra) where the concerned provision was 116A (2) of the Representation of People Act, 1951, The Special Act herein and particularly the

[15] AIR 1964 SC 1099 (Five-Judge Bench)

Appeal provision mentioned therein does not provide that the procedure governing the Appeal shall be in accordance with the Code. In particular, reliance is placed on paras 6-8, 18, 19 and 33 of the said Constitution Bench judgement.

6.2 Another "condition precedent" for the employment of Article 116 is that the Appeal governed thereby arise from an Order or a Decree. It is submitted that, in the present case, the Order passed is neither a Decree nor an Order. Further it is submitted that the Order dated 13 April 2005 which was the Order against which the subject Appeal had been filed, was an Order passed by an executive officer who is neither a Court nor a Civil Court as recognised in Law. The Learned Senior Counsel relies on **Nahar Industrial Enterprises Ltd. v. Hongkong & Shanghai Banking Corporation**[16]. In particular, paras 26, 67 – 69, 71 – 73, 85, 86 and 89 are relied upon.

6.3 The powers of the Civil Court, conferred upon the Commissioner of payments are for a very limited purpose. It is for this reason that Article 116 would not apply. Thereby meaning that the present Appeal is outside the purview of the Limitation Act and

[16] (2009) 8 SCC 646

can be filed at any time. Reference is made to **Uttam Namdeo Mahale v. Vithal Deo & Ors.**[17]

6.4 It is further submitted that without prejudice to the contentions made, even if it is concluded that Article116 of the Limitation Act would apply or that the time period to file Appeal would be "a reasonable period", the matter may be remanded to the District Judge, as the Principal Civil Court of Original jurisdiction (being the Appellate Court herein) for consideration of the application under Section 5 of the Limitation Act.

B. <u>Respondent</u>

7. It is submitted that to attract Article 116 of the Limitation Act, it is not necessary that such Appellate remedy should be conferred by the Code. It is only that the procedure for such Appeal be governed under the Code.

7.1 The Act provides for an Appeal from the Order passed by the Commissioner of payments to lie to a principal Civil Court of original jurisdiction which, by all intent and purposes is governed by the Court.

[17] (1997) 6 SCC 73

7.2 A reading of the Statutory scheme, it is submitted, suggests that the Legislature intended the Commissioner to function as the Civil Court for "all practical purposes". The fact that an Appeal therefrom lies to a Principal Civil Court of Original jurisdiction, further substantiates such intention.

7.3 It is submitted that Article 116 provides for Limitation in cases of Appeal under the Code from any Decree or Order to High Court. **Vidyacharan Shukla** carved out a third category where the Appeal is not governed by the provisions of the Code but the procedure therefore and the powers for dealing there with, are governed by the Code.

7.4 The Claimant - Appellants contention, it was submitted, runs strictly contrary to the very objective of the Law of Limitation which is to ensure that a dispute does not survive endlessly and that the parties subject thereto are not forever, in the land of uncertainty.

7.5 The Appeal before the District Judge, was filed 3 years 6 months and 22 days after passing of the Order by the Commissioner of Payments. It is submitted that the delay in Condonation Application, which states that it was only then that the Appellant came to know of the provisions of Section 22(8) of

the Jogighopa Act, amounts to ignorance of Law which is not an excuse permissible.

7.6 It is further submitted that, it is now well settled that the Courts are not to take a liberal approach in condonation of delay in the absence of sufficient cause. To substantiate this position, Learned Senior Counsel refers to **Amalendu Kumar Bera v. State of W.B**.[18]

7.7 It is further submitted without prejudice, that in the absence of a prescribed Statutory Limitation, approaching the Court, is to be done within "reasonable time". **Satyan v. Deputy Commissioner**[19] is relied on.

7.8 Section 19 of the Act provides for a claim before the Commissioner to be filed within 30 days from the specified date. It provides that if such authority is satisfied that the claimant was prevented by sufficient cause, he may entertain the claim within a further period of 30 days, but no later – this suggests that the intention was to provide for a summary and expeditious claim disposal mechanism. This further suggests, it is submitted, that it would be unfair to suggest that the Legislature had provided a

[18] (2013) 4 SCC 52
[19] (2020) 14 SCC 210

strict timeline for claims but intended to provide an endless opportunity for appeals.

CONSIDERATION BY THIS COURT

8. The term "Court" is not defined under the Code. What it does define is a decree and an order in Section 2(2) and Section 2(14) respectively. The said definitions are extracted below.

> "Section 2(2) "Decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within [1]*** section 144, but shall not include.
>
> (a) any adjudication from which an appeal lies as an appeal from an order, or
>
> (b) any order of dismissal for default.
>
> *Explanation*. A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final."
>
> "Section 2(14) "order" means the formal expression of any decision of a Civil Court which is not a decree."

9. The Indian Evidence Act, 1872 defines the word "Courts" as under:-

> "**3**....."Court".—"Court" includes all Judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence."

However, this Court in **State of M.P v. Anshuman Shukla**[20] while referring to a judgment of the Calcutta High Court[21] observed that the definition under the said Act is not exhaustive, but all authorities authorized to take evidence must be held to be courts under the meaning of said provision.

10. In **P. Sarathy v. SBI**[22] this Court has observed

> "13. The Court referred to the earlier decisions in Bharat Bank Ltd. v. Employees [1950 SCC 470 : AIR 1950 SC 188 : 1950 SCR 459] ; Maqbool Hussain v. State of Bombay [AIR 1953 SC 325 : 1953 SCR 730] and Brajnandan Sinha v. Jyoti Narain [AIR 1956 SC 66 : (1955) 2 SCR 955] . The Court approved the rule laid down in these cases that in order to constitute a court in the strict sense of the term, an essential condition is that the court should have, apart from having some of the trappings of a judicial tribunal, power to give a decision or a definitive judgment which has finality and authoritativeness which are the essential tests of a judicial pronouncement."

11. Article 116 of the Limitation Act provides the period of limitation for an appeal, a) to a High Court i.e., 90 days from the date of order/decree; and b) to any other court from an order, 30 days from the date of order/decree.

[20] (2008) 7 SCC 487
[21] Empress v. Ashootosh Chuckerbutty [ILR (1879-80) 4 Cal 483]
[22] (2000) 5 SCC 355

12. The Claimant - Appellants contend that this court judgment in **Vidyacharan Shukla** (supra) is clearly distinguishable from the present dispute. In the said case, *inter alia*, the court was faced with a statute (Representation of Peoples Act, 1951), to which the Court has been made expressly applicable, whereas the same is not the case here. On the other hand, the respondents argue that since an appeal under Section 22 (8) of the Jogighopa Act is to a principal court of original civil jurisdiction, which qualifies as an appeal 'governed by the Court' – Article 116 of the Limitation Act shall be attracted.

13. The Constitution Bench in **Vidyacharan Shukla** referred to three judgments of High Courts in **Aga Mahomed Hamadani v. Cohen**[23]**, Ramasami Pillai v. Deputy Collector of Madura**[24]**, and Dropadi v. Hira Lal**[25]. In each of these three decisions, the respective High Courts were tasked with the question of application of Article 156 of the Limitation Act (now Article 116) to the Burma Court's Act, the Provincial Insolvency Act, 1907 and Land Acquisition Act, 1894 respectively. In **Cohen** (supra) it was observed that "the natural meaning of an appeal under the Civil

[23] (1886) ILR 13 Cal 221
[24] AIR 1920 Mad 407
[25] ILR (1912) 34 All 496 (FB)

Procedure Code appears to us to be an appeal governed by the Code of Civil Procedure so far as procedure is concerned". In Hira Lal (Supra) the full bench of the Allahabad High Court observed that the objection of Section 47 thereof appears to be to attract the provisions of the Code. **In Ramasami Pillai** (supra), it was held that by virtue of Section 54, the procedure in its entirety set out in the code to govern appeals, was made applicable to the Land Acquisition Act. Similar to the above said decisions of the High Courts this Court in the said decision was also dealing with a statute which expressly made applicable[26], the provisions of the code. The holding, therefore, is that appeals provided for in special statutes that are governed by the code, can be said to be appeals under the code for the purposes of Article 116 of the Limitation Act.

14. We may now refer to Section 22(6) of the Jogighopa Act which deals with the powers vested in the Commissioner under the Act. The relevant portion of which reads as under: -

> "(6) The commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a Civil Court under the

[26] Section 90 of Representation of Peoples Act, 1951

> Code of Civil Procedure, 1908, in respect of the following matters, namely:-
>
> (a) The summoning and enforcing the attendance of any witness and examining him on Oath :
> (b) the discovery and production of any document or other material object producible as evidence ;
> (c) the reception of evidences on affidavits;
> (d) the issuing of any commission for the examination of witness."

15. A perusal of the above extracted section of the Jogighopa Act makes sufficiently clear the commissioner "for the purpose of making and investigation under this act" shall have the powers vested in "a civil court" under the Code to the limited extent as mentioned in (a), (b), (c), (d).

16. The intent of the Assam State Legislature is quite clear. Not only under Section 22 (6) is the application of the code limited but further under Section 22 (7)[27]. The application thereof is also equally well circumscribed therein, the Commissioner has been deemed to be a Civil Court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. Section 195 provides for Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences

[27] "7.Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of Section 193 and 228 of the Indian Penal Code, and the Commissioner shall be deemed to be a Civil Court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973."

relating to documents given in evidence. Chapter XXVI relates to Provisions as to Offences Affecting the Administration of Justice.

17. The above description of the powers of either the Code or Cr.P.C. clearly testifies to the intent of the state legislature to specifically restrict the application of both the said codes, to only the extent provided. The principle of statutory interpretation: *expression unius est exclusion alterius* (the expression of one thing is the exclusion of the other) supports such a view. We also notice this Court holding **International Asset Reconstruction Company of India vs Official Liquidator**[28] as extracted below:

> **"9.** The fact that the Tribunal may be vested with some of the powers as a civil court under the Code of Civil Procedure, regarding summoning and enforcing attendance of witnesses, discovery and production of the documents, receiving evidence on affidavits, issuing commission for the examination of witnesses or documents, reviewing its decisions, etc. does not vest in it the status of a court. Section 22(1), in fact, provides that the Tribunal shall not be bound by the procedures under CPC, and can regulate its own procedures in accordance with natural justice."
>
> (Emphasis supplied)

18. Therefore, it is clear from the above extracted decision that the vesting of select few powers upon a Tribunal, or as in the present case, a statutory authority, does not equate the same to

[28] (2017) 16 SCC 137

be a Court within the meaning of the code. It is also noteworthy that Section 22 (6) states "the Commissioner shall have the power to regulation his own procedure in all matters arising out of the discharge of his functions including the place or places at which he will hold his sittings"; This also supports the proposition that the Code does not apply to the proceedings of the Commissioner.

19. We must consider now, the contention of the respondent that by virtue of Section 22 (8) providing for an appeal to a court of Original Civil Jurisdiction thereby the appeal being brought under the code, implies that the Jogighopa Act itself shall be governed by the code. Section 22 (8) reads as under: –

> "8. A Claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against such decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the undertaking of the Government Company is situated
>
> Provided that where a person who is a Judge of High Court is appointed to be the Commissioner such appeal shall lie to the High Court at Guwahati, and such appeal shall be heard and disposed of by not less than two Judges of that High Court."

20. The above noticed maxim of statutory interpretation would suggest otherwise. As discussed, the state legislature has been conscious to make only certain parts of the Jogighopa Act governable by the code. Here only we may note the proviso to

Section 22 (8) which states that in case the Commissioner under the Jogighopa Act is a Judge of a High Court, then an appeal from an order of such Commissioner shall lie before no less than two Judges of the High Court.

21. It is in this light that we find Section 22 (8) of the Jogighopa Act cannot be said to be an appeal under the code governed by Article 116 of the Limitation Act. The conclusion which beckons then is that the period of limitation mentioned under such article of the Limitation Act shall not apply to Section 22 (8) of the Jogighopa Act. The Claimant - Appellants contention of the impugned judgement's reliance on with Vidyacharan Shukla (supra) being misplaced, therefore, has to be accepted.

22. Having come to the conclusion as above, we are required to consider, whether the instant appeal, filed against the order of the Commissioner of Payments is maintainable or not? Prior to delving into such a question, we would also need to examine as to whether in the absence of an expressly prescribed limitation, can an appeal from an order passed by the Commissioner of Payments, be entertained, irrespective of passage of time?

23. This dispute concerns the exercise of a statutory right. The issue of no express limitation being provided in regard to the exercise of a right to assail the order has captured the attention of this Court, earlier, on certain occasions. We may refer to some decisions hereinbelow: –

23.1 In **State of Punjab & Ors. v. Bhatinda District Cooperative Milk Producers Union**[29] this Court observed that -

> "**18.** It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors."

The principle stands reiterated in **Securities and Exchange Board of India v. Sunil Krishna Khaitan & Ors.**[30]

23.2 In **Jagdish v. State of Karnataka**[31], this Court referred to a number of decisions to reiterate that where the statute in question does not prescribe a limitation, the

[29] (2007) 11 SCC 363
[30] (2023) 2 SCC 643
[31] (2021) 12 SCC 812

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rights conferred therein must be exercised within reasonable time.

23.3 This aspect of reasonable time was recently discussed by this Court in **Madras Aluminium Co Ltd v. Tamil Nadu State Electricity Board**[32]**,** having referred a three-Judge Bench decision in **SEBI v. Bhavesh Pabari**[33] stating that the concept is to be applied and judged in each case per its own peculiar facts.

24. We further refer to observations made in **Ajaib Singh v. Sirhind Coop. Marketing-cum-Processing Service Society Ltd.**[34] to the effect that Courts should be wary of prescribing specific period of limitation in cases where the legislature has refrained from doing so. It was further observed that where the defence of delay is employed in a situation where no limitation is prescribed vide statute, the exact prejudice or loss suffered by the party if such a delay is condoned, must be shown on facts. In other words, in the absence of a specific limitation it would be improper for courts to dismiss a plea is solely on the ground of delay without

[32] (2023) 8 SCC 240
[33] (2019) 5 SCC 90
[34] (1999) 6 SCC 82

having examined the nature of laws order prejudice caused to the other party in the facts and circumstances of the case at hand.

The holding in **Ajaib Singh** (supra) was affirmed by a three-Judge Bench of this court in **Purohit & Co. v. Khatoonbee.**[35]

25. In light of above discussion, it is clear that when a Court is seized of a situation where no limitation stands provided either by specific applicability of the Limitation Act or the special statute governing the dispute, the Court must undertake a holistic assessment of the facts and circumstances of the case to examine the possibility of delay causing prejudice to a party. When no limitation stands prescribed it would be inappropriate for a Court to supplant the legislature' s wisdom by its own and provide a limitation, more so in accordance with what it believes to be the appropriate period. A court should, in such a situation consider in the facts and circumstances of the case at hand, the conduct of the parties, the nature of the proceeding, the length of delay, the possibility of prejudice being caused, and the scheme of the statute in question. It may be underscored here that when a party to a dispute raises a plea of delay despite no specific period being

[35] (2017) 4 SCC 783

prescribed in the statute, such a party also bears the burden of demonstrating how the delay in itself would cause the party additional prejudice or loss as opposed to, the claim subject matter of dispute, being raised at an earlier point in time.

26. In determining the question at hand, it would also be useful to take note of the statutory scheme of the Jogighopa Act. Section 17 of the Act states that the State government or government company shall, within 30 days of the appointed day, pay in cash all amounts under Sections 8 and 9 of the Act to the Commissioner for discharge of the liability of the company. Section 19 states that every person having a claim to payments under the schedule shall make a claim before the Commissioner within a period of 30 days from specified date. The proviso thereto states that the Commissioner also has the power to entertain claims made for an additional 30 days after the expiry of the initial period, but not thereafter. Section 20 read with the schedule, prescribes priority of payments when discharging the liabilities. As evident from the above referred to provisions, the state legislature was conscious of the aspect of limitation and has categorically therefore, prescribed periods for claims to be made so as to not leave open the possibility

of a claim, indefinitely. Crucially, the legislature omitted placing any period of limitation when it came to Section 22 (8) of the Act.

27. When a statute, either general or specific in application, provides for a limitation within which to file an appeal, the parties interested in doing so are put to notice of the requirement to act with expedition. However, opposite thereto, in cases such as the present one where neither statute provides for an explicit limitation, such urgency may be absent. While it is still true that, as held in **Ajaib** (supra), this does not entitle parties to litigate issues decades later, however shorter delays, in such circumstances, would not attract delay and laches.

28. The present facts are that the Claimant - Appellants are aggrieved by an order of The Commissioner of Payments dated 13 April 2005. The appeal filed thereagainst was on 5 November 2008. In the intervening period, it is submitted by the Claimant - Appellants that they pursued remedies by way of a Contempt Petition before the High Court[36] which came to be disposed of on 1 April 2008 without any particular relief having been granted. The appeal before the District Judge, under section 22(8) of the

[36] Contempt Case 293 Of 2005, filed on 11 May 2005.

Jogighopa Act, came to be filed thereafter and the order in question was passed on 5 November 2008.

29. Consequent to the discussion made hereinabove, i.e., neither the general nor the specific statute providing for an appeal from an order of the Commissioner of Payments within a specified period of time, the Claimant – Appellants' appeal cannot be said to be barred by time. The same would therefore, be maintainable.

30. The questions raised in this appeal are answered as under-

30.1 The Jogighopa (Assam) Unit of Ashok Paper Mills Limited (Acquisition Transfer of Undertaking) Act, 1990, is not governed by the prescription of limitation under Article 116 of the Limitation Act, 1963, as the appeal thereunder, from an order of the Commissioner of payments cannot be said to be an appeal under the Code of Civil Procedure, 1908 for the Legislature of the State of Assam has been categorical in limiting the application of the code to certain aspects of the Act only. Given that the Jogighopa Act allows for a Judge of the High Court to be the Commissioner of Payments and then categorically provides for an appeal to lie

therefrom, Division Bench of the High Court further evidences the *sui generis* nature of the appeal procedure provided therein.

30.2 In the absence of any particular period of time being prescribed to file an appeal, the same would be governed by the principle of 'reasonable time', for which, by virtue of its very nature, no straitjacket formula can be laid down and it is to be determined as per the facts and circumstances of each case. In the present *lis*, having regard to the sequence of events, as taken note of above-the Claimant - Appellants cannot be said to have transgressed the boundaries of reasonable time in filing their appeal before the District Judge.

31. The appeal is allowed in the aforesaid terms. The file is restored to the docket of the concerned District Judge for him to proceed in accordance with law and in light of the discussions made herein. The same be decided possibly within a period of three months from the date on which a copy of this judgment and

order is received by the District Judge, as is necessitated by the attending facts and circumstances.

32. Parties to bear respective costs.

.....J
(ABHAY S. OKA)

.....J
(SANJAY KAROL)

New Delhi;
Dated : 11 December 2023.