

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 8181/2019
(arising out of SLP(C) No. 9268/2017)

SAMARESH PRASAD CHOWDHURY

Appellant

VERSUS

UCO BANK & ORS.

Respondents

O R D E R

Leave granted.

The appellant calls in question the order of the High Court, by which the learned single Judge, according to the appellant, has made observations against him which are unwarranted, both on facts and in law.

The appellant is a Judicial Member of the State Consumer Disputes Redressal Commission, West Bengal. According to the appellant, in a case filed against the first respondent-bank on account of non-appearance on behalf of the first respondent-bank, the bank came to be proceeded *ex-parte*.

The case of the first respondent was that though it had approached by filing vakalatnama and seeking to set aside the order which was passed *ex-parte*, it was not being heeded to.

The complaint of the appellant is that the learned single Judge without appreciating the true state of facts and law, has made observations against him. The learned counsel would submit that on authorities, such observations were uncalled for. He would submit that the case of the appellant is that there is no power to set aside *ex-parte* order, as far as the State Commission is concerned. The amendment which was brought about only

empowered the National Commission under Section 22A of the Consumer Protection Act, 1986.

We have also heard the learned counsel appearing for the first respondent.

We are of the view that there is merit in the case of the appellant. The observations which have been made against the appellant herein appear to have been unjustified having regard to the actual statutory provisions contained in the Act in question, as interpreted by this Court in a three-Judge Bench decision in *Rajeev Hitendra Pathak vs. Achyut Kashinath Karekar*, (2011) 9 SCC 541.

In view of the above, the appeal is allowed. We direct that all the observations which have been made in the impugned order against the appellant will stand expunged.

.....J.
[K.M. Joseph]

.....J.
[A.S. Bopanna)

New Delhi;
October 21, 2019.

ITEM NO.44

COURT NO.17

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No. 9268/2017

(Arising out of impugned final judgment and order dated 05-10-2016
in CO No. 3185/2016 passed by the High Court At Calcutta)

SAMARESH PRASAD CHOWDHURY

Petitioner

VERSUS

UCO BANK & ORS.

Respondents

Date : 21-10-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner

Mr. P.S. Datta, Sr. Adv.
Ms. Anwesha Saha, Adv.
Mr. Fuzail Ahmad Ayyubi, AOR

For Respondents

Mr. Partha Sil, AOR
Mr. Ruchir Mishra, Adv.
Mr. Ramneek Mishra, Adv.
Mr. Tavish B. Prasad, Adv.

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

Leave granted.

**The appeal is allowed in terms of the signed
order.**

**Pending interlocutory applications, if any, shall
stand disposed of.**

(Deepak Guglani)
Court Master

(Indu Kumari Pokhriyal)
Assistant Registrar

(signed order is placed on the file)