

## **Hpl (India) Limited & Ors vs Qrg Enterprises And Another on 14 February, 2017**

1. This appeal is directed against the order dated 20.12.2016 passed by a learned Single Judge of this court in I.A. No.15867/2016 in CS (Comm)1218/2016. The said application was filed by the plaintiffs, inter alia,

praying that new documents filed alongwith the affidavits by way of

examination-in-chief of new witnesses of the plaintiffs be taken on record.

The learned single Judge permitted the said documents to be taken on

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record, subject to the plaintiffs / respondents herein paying costs. The

appellants are aggrieved by this order.

2. At the commencement of the hearing of this appeal, the respondents

took a preliminary objection as to its maintainability. It was contended that

the impugned order was not an appealable order specified in Order XLIII of

the Code of Civil Procedure, 1908 (hereinafter referred to as ‘the CPC’). It

was further contended that this being an order passed by the Commercial

Division of this High Court, an appeal therefrom was governed by Section

13 of the Commercial Courts, Commercial Division and Commercial

Appellate Division of High Courts Act, 2015 (hereinafter referred to as ‘the

said Act’). It was contended that the proviso to Section 13 (1) of the said

Act limited appeals from orders to such orders which were specifically

enumerated under Order XLIII CPC and Section 37 of the Arbitration and

Conciliation Act, 1996. Reliance was also placed on Section 13(2) of the

said Act which is a non-obstante provision specifying that notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance

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with the provisions of the said Act. Relying upon these provisions, it was contended that the present appeal was not maintainable.

Source: Indian Kanoon