

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).3046/2006

(From the judgement and order dated 05/09/2005 in SA No. 1046/2005
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

MUNICIPAL CORPN., ALLAHABAD AND ANR.

Petitioner(s)

VERSUS

HARSH TANDON AND ANR.

Respondent(s)

(With appln(s) for vacating interim order and office report)

Date: 17/04/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s)

Mr. T.N. Singh,Adv.

For Respondent(s) Mr. A.K. Ganguli,Sr.Adv.

Mohd. Halim Siddiqui,Adv.

Mr. Daleep Tandon,Adv.

Mr. Jitendra Mohan Sharma,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard.

he question

It appears that the learned single Judge, without going into t

deration

of maintainability of the appeal before the concerned court, directed consi

e. Before directing of the stay application. The approach is clearly untenable. Before directing consideration of the stay application, the High Court should have left the question of maintainability of the appeal itself to be decided by the appropriate court. We, therefore, set aside the order of the learned single Judge. It is to be noted that the Division Bench go into the merits as it was of the view that the Special Appeal was not maintainable.

- 2 -

question It would have been appropriate for the High Court to leave the question of maintainability of the appeal to be decided by the Small Causes Court. It shall be open to the respondents to bring to the notice of the concerned Small Causes Court that the appeal filed is maintainable/entertainable in terms of the governing statute. We, therefore, allow this petition. The impugned orders are set aside.

Chand) (Ritu Chawla) (Ramesh
Court Master

