

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).4478/2005

(From the judgement and order dated 29/11/2004 in LPA No. 1112/1997 of The HIGH COURT OF GUJARAT AT AHMEDABAD)

AHMEDABAD MUNICIPAL CORPN.

Petitioner(s)

VERSUS

VINABEN DESAI

Respondent(s)

(With prayer for interim relief and office report )(For final disposal)

WITH SLP(C) NO. 7221 of 2005

(With appln9s) for c/delay in filing SLP and with prayer for interim relief and office report )(For final disposal)

Date: 07/04/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Petitioner(s)

Mr. Mahendra Anand, Sr. Adv.

Mr. H.S. Parihar, Adv.

Mr. Kuldeep Parihar, Adv.

For Respondent(s)

Mr.S. Udaya Kumar Sagar, Adv.

Ms. Bina Madhavan, Adv.

Mr. A. Venyagam, Adv.for

M/S. Lawyer'S Knit & Co.

UPON hearing counsel the Court made the following

O R D E R

SLP(C) No. 4478/2005

The petitioner having invoked the supervisory jurisdiction of the High Court in

terms of Article 227 of the Constitution of India, there cannot be any doubt that the Letters Patent

Appeal was not maintainable. Consequently this special leave petition is also not maintainable. The

special leave petition is dismissed accordingly.

SLP(C) No. 7221/2005

Delay condoned.

Leave granted.

Appeal is allowed in terms of the signed order.

(Meenu Sethi)  
a Bhardwaj)

( Pushap Lat

Court Master

Court Maste

r

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1956 /2006

(Arising out of SLP(C) No.7221/2005)

Ahmedabad Municipal  
Corporation

... Appellant

VERSUS

Vinaben Desai

... Respondent

O R D E R

Delay condoned.

Leave granted.

The question which was raised before the High Court was that as to whether the respondent herein was a workman. In its award dated 5.11.1988 the Industrial Tribunal, Gujarat has gone into the said question and arrived at a finding to the effect that the respondent was a workman and not a supervisor. The High Court, however, refused to go into the said question stating "Even if there is some merit in the contention of the counsel for the petitioner regarding lack of jurisdiction of Industrial Tribunal, in the present case where no prejudice is caused to the petitioner, this Court may decline to interfere.

Where substantial justice has been done to the parties and no injustice is likely to be caused to the petitioner, this Court may justify to decline to interfere in the matter".

We do not think that the approach of the High Court was proper. When the question as regards the existence of jurisdictional fact had been raised, the High Court should have gone thereinto. It might not have interfered with the award but could not have refused to go into the contentions if the same related to

jurisdictional question. The jurisdiction under Article 227 of the Constitution can be invoked provided the writ petitioner makes out a ground for invoking the power of judicial review in terms of Article 227 of the Constitution of India. The impugned judgment,

therefore, cannot be sustained. The appeal is

allowed and the impugned order is set aside for

consideration of the matter afresh by the High Court in

the the light of the above observations as also in the

light

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of the well settled principles of law operating in the

filed. We would request the High Court to consider the

desirability of disposing of the matter as early as

possible. No costs.

.....J.

( S.B.SINHA )

.....J.

( P.K.BALASUBRAMANYAN )

New Delhi,

April 7, 2006.