

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3847 OF 2000

HAZI MOHD. SADDIQ & ANR

Appellant (s)

VERSUS

SHAFIKAN & ORS

Respondent(s)

(With appln(s) for c/delay in filing substitution, exemption from filing O.T. and prayer for in  
terim relief

and office report

Date: 29/03/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Appellant(s) Mr. Dinesh Kumar Garg, Adv.

For Respondent(s) Mr. V.J. Francis, Adv.

Mr. Anupam Mishra, Adv.

Mr. C.M. Jayakumar, Adv.

Mr. Jenis, Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

Substitution allowed.

The appeal is allowed in terms of the signed order.

1)

(Shashi Sareen)

(Vijay Aggarwa

Court Master

Court Master

(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3847 OF 2000

HAZI MOHD. SADDIQ & ANR.  
Appellant(s)

...

Versus

SHAFIKHAN & ORS.  
Respondent(s)

...

O R D E R

Heard learned counsel for the parties.

Challenge in this appeal is to the order dated 21.05.1999  
passed by a

learned Single Judge of the Allahabad High Court allowing the applicati  
on for

review. By order dated 21.12.1998 learned Single Judge had dismissed the second

appeal with the observation that the substantial questions of law set o  
ut in the

Memorandum of Appeal are pure questions of fact and substantial question of law

as has been set out was involved in the second appeal. Diametrically opposite view

taken while allowing the review application by holding in the review applic  
ation

that same was to be allowed as good points for

hearing of the appeal were made out because the trial Judge dismissed the suit

under Section 34 of the Special Relief Act and the findings recorded by learned

ot to be Addl. District Judge were different. Normally a review application is not

admitted for a order of the nature which was sought to be reviewed. In any event

the mandate of sub-Section (4) of Section 100 of Code of Civil Procedure was not

kept in view by learned Single Judge. Therefore, we set aside the impugned order

of the High Court and remit the matter to it for hearing the parties on the question

of admissibility of the second appeal keeping in view the parameters of Section 100

of the Code of Civil Procedure. Since the matter is pending since long, we request

the High Court to dispose of the matter as expeditiously as it can and preferably

within three months from the date of receipt of our order. The appeal is allowed to

the aforesaid extent.

.....J.

(ARIJIT PASAYAT)

.....J.

(TARUN CHATTERJEE )

New Delhi,

March 29, 2006.