

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).20671/2005

(From the judgement and order dated 29/07/2005 in CSOS No. 2602/2000 & IA No. 6816/2003 of The HIGH COURT OF DELHI AT N. DELHI)

SATISH AGGARWAL @ SATISH CHAND AGGARWAL

Petitioner(s)

VERSUS

BASANT SHEORAN

Respondent(s)

(With prayer for interim relief and office report )

(For final disposal)

Date: 30/03/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr. Sanjeev Anand,Adv.

For Respondent(s)

Ms. B. Vijayalakshimi Menon,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

(Meenu Sethi)

Court Master

(Pushap Lata Bhardwaj)

Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1723 /2007

(@ SLP(C) No. 20671/2005)

Satish Aggarwal @ Satish ...Appellant

Chand Aggarwal

Versus

Basant Sheoran

...Respondent

ORDER

Leave granted.

Appellant questions the legality of order

dated 29.7.2005 passed by a learned Judge of the High

Court of Delhi refusing to review its orders dated 29.10.2001,

21.2.2002 and 20.5.2003.

Respondent herein filed a Suit under Order

37 of the Civil Procedure Code against the appellant. He filed

an application for attachment before judgment. The

defendant-appellant appeared at that stage and a purported

statement was made on 22.10.2001, although, it was not an

appropriate stage therefor, that by the next date of hearing arrangement for the security of the Suit amount shall be made. By an order dated 21.2.2002 the appellant-defendant was asked to furnish security in terms of the said order although only an application for adjournment was filed on behalf of the defendant-appellant. Long thereafter namely on or about 20.5.2003, an application was filed by the plaintiff-respondent that the defence of the appellant, if need be, struck off. An application for review of that order has been dismissed by the learned Single Judge by reason of the impugned judgment.

Having heard learned counsel for the parties, we are of the opinion that it is not necessary to sustain the impugned orders as it is accepted at the Bar that the appellant herein has been granted leave to defend the suit subject to the deposit of the entire amount. It goes without saying, that if the said condition is not fulfilled, the appellant would not be able to defend the suit. On the other hand, if the amount is deposited, the plaintiff's interest would be secured. Furthermore, the impugned orders being not under 38 Rule 1 and 5 of the Civil Procedure Code, the question of furnishing security does not arise.

The appeal is disposed of with the aforementioned observations.

.....J.

[ S.B. SINHA ]

.....

...J.

[ MARKANDEY

KATJU]

New Delhi,

March 30, 2007