

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8895 OF 1997

MUNICIPAL COMMITTEE, SHAHABAD

.... PETITIONER

VERSUS

SATPAL SAHANI

.... RESPONDENT

O R D E R

In this appeal the validity and correctness of the impugned order directing the appellant to pay a sum of Rs.56043/- to the respondents is challenged. The learned counsel for the appellant contended that the High Court was not right and justified in giving a direction for payment of the amount afore-mentioned in the writ petition; if the respondent was entitled to any money claim, he ought to have approached the Civil Court or availed of other remedy that was available in law; it was not open to him to make money claim in the writ petition. On the other hand, the learned counsel for the respondent supported the impugned order stating that the direction was given for payment on the basis of admission of the claim made by the appellant. In this regard, he pointed out to paragraph 3 of the counter affidavit filed before the

..2/-

.2.

High Court. The learned counsel for the appellant submitted that the statement made in the counter affidavit cannot be taken as an unequivocal admission of the claim of the respondent. He added that if the direction given by the High Court in the impugned order is allowed to stand, it may set up a precedent wherein the respondent could be encouraged to approach the High Court by filing writ petition even to enforce the money claim.

Looking to the contents in paragraph 3 of the counter affidavit and what is recorded in the impugned order of the High Court that the direction was given on the basis of admission of the claim made by the appellant, we do not think it appropriate to interfere with the impugned order. All that we can say is that the impugned order is based on the facts of the case keeping in view the respective contentions and having regard to the statement made in the counter affidavit. The order is not made stating any principle on which the money claim should or should not be entertained in the writ petition.

..3/-

.3.

That being the position, we do not find any merit in the appeal. Consequently, it is dismissed, but, with no order as to costs.

.....J.

(SHIVARAJ V. PATIL)

New Delhi, (D.M. DHARMADHIKARI)J.
September 25, 2003.
ITEM NO. 104 COURT NO.8 SECTION IV

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

CIVIL APPEAL NO. 8895 OF 1997

MUNICIPAL COMMITTEE, SHAHABAD .. APPELLANT

VERSUS

SATPAL SAHANI .. RESPONDENT
(With Appln.(s) for exemption from filing O.T. and with
office report)

DATE: 25/09/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For appellant (s)Mr. A.K. Sanghi, Adv.

For respondent (s)Mr. Prem Malhotra, Adv.

Upon hearing counsel the Court made the following
O R D E R

Heard learned counsel for the parties for 5 minutes.
The appeal is dismissed with no order as to costs in terms of the signed order.

Sarita(Shelly Sengupta)
Court Master

(Signed order is placed on the file)