
(2010) 09 GUJ CK 0136
In the Gujarat High Court

Case No : Civil Revision Application No. 1238 of 1999

Pranav Ramesh Shah

APPELLANT

Vs

Shashi Kumar Mohata

RESPONDENT

Date of Decision : 08-09-2010

Acts Referred:

Citation : (2010) 09 GUJ CK 0136

Hon'ble Judges : M.B. Shah, J

Bench : Single Bench

Advocate : M.B. Gandhi, for the Appellant; Mukund M. Desai and H.L. Langhnojia, for the Respondent

Judgement

M.D. Shah, J.—Though this Matter is called out twice, learned Advocate for the respondent is not present.

2. This Revision Application is filed against the order dated 02.04.1999 passed by the learned City Civil Court, Ahmedabad in Summary Civil Suit No. 1576 of 1997 whereby the learned Trial Court has passed the order "leave to defend is granted subject to condition that the defendant should deposit sum of Rs. 50,000/- in the Court within six weeks."

3. Respondent herein - original plaintiff filed Summary Civil Suit No. 1576 of 1997 against appellant herein - original defendant before the learned City Civil Court, Ahmedabad for recovery of an amount of Rs. 97,000/-. Against the claim of the original plaintiff, the appellant herein - original defendant filed leave to defend application and contended that matter was referred to Arbitrator and Arbitrator has given award and he has made full payment towards the award. After hearing both the sides, learned Trial Court passed an order dated 02.04.1999 "leave to defend is granted subject to condition that the defendant should deposit sum of Rs. 50,000/- in the Court within six weeks". Hence, present appellant - original defendant has preferred present Revision Application against the said order.

4. Mr. Chinmay Gandhi, learned Advocate appearing for the appellant has invited attention of this Court to Annexure-A, E, and F and has fairly stated that unfortunately these documents were not produced before the Trial Court in the leave to defend application. This Court has perused these documents. On considering these documents, it appears that prima facie there is some substance.

5. In view of above, if impugned order is modified to extent that "leave to defend is granted subject to condition that the appellant herein - original defendant should deposit sum of Rs. 20,000/- in the Trial Court within a period of 6(six) weeks", the same will meet the ends of justice.

6. For the reasons stated above, order dated 02.04.1999 passed by the learned City Civil Court, Ahmedabad in Summary Civil Suit No. 1576 of 1997 is modified to the extent that "leave to defend is granted subject to condition that the appellant herein - original defendant should deposit sum of Rs. 20,000/- (Rupees Twenty Thousand only) in the Trial Court within a period of 6(six) weeks from today". On deposit of such amount, the learned Trial Court shall invest the same in any Nationalized Bank initially for a period of 3(three) years. Learned City Civil Court, Ahmedabad is directed to decide and dispose of the Summary Civil Suit No. 1576 of 1997 as early as possible as the Suit is of the year 1997.

Rule is made absolute to the aforesaid extent.