

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 6082 OF 2001

GHANSHYAM G. KHANCHANDANI

Appellant (s)

VERSUS

MOHANDAS C.GURDASANI

Respondent(s)

(With prayer for interim relief )

WITH Civil Appeal NO. 6083 of 2001  
(With appln.(s) for substitution and substitution)

Date: 28/02/2008 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR  
HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s)

In-Person

For Respondent(s)

in both the appeals Mr. Sanjay V. Kharde, Adv.  
Mr. Arvind Avhad, Adv.  
Ms. Chandan Ramamurthi, Adv.

UPON hearing counsel the Court made the following  
ORDER

Application for substitution is allowed.

The appeals are partly allowed to the extent indicated in the signed  
order.

(Ajay Kr. Jain)  
Court Master

(Gyan Bhatia)  
Court Master

(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6082 OF 2001

Ghanshyam G. Khanchandani	....	Appellant
	Versus	
Mohandas C. Gurdasani	....	Respondent

WITH  
CIVIL APPEAL NO. 6083 OF 2001

Ghanshyam G. Khanchandani	....	Appellant
	Versus	
Neelam M. Gurdasani(Since Dead)	....	Respondent

ORDER

1. We have heard the appellant, who appears in person, as well as learned

counsel for the appellant on I.A. No. 3/2008 in C.A. No. 6083/2001.

2. In this application the appellant has prayed that the sole respondent Mrs. Neelam M. Gurdasani had expired on 28th September, 2007 in a car accident and, therefore, her legal representatives may be brought on record and the appellant may be permitted to amend the cause title.

3. In the facts and circumstances of this case, we allow this application. The name of the deceased Mrs. Neelam M. Gurdasani is deleted and her legal representatives are taken on record.

4. Office may make the necessary amendment in the cause title in Civil Appeal No. 6083/2001.

5. Both these appeals are taken up together for disposal as they involve similar questions of fact and law.

6. Civil Appeal No. 6083/2001 arises out of the judgment and order dated 11.12.1997 of the Division Bench of the High Court of Bombay in appellant's Appeal No. 567/1997 whereby the Division Bench has affirmed the order dated 02.12.1996

passed by the learned Single Judge in Summary Suit No. 376/1995 whereby the appellant-original defendant was permitted to defend the suit on deposit of

Rs.2,50,000/-. Brief facts are, the respondent-original plaintiff, Neelam M. Gurdasani(since deceased) filed a suit for recover of Rs. 2,50,000/- against the

appellant-defendant. The said suit was based on two cheques each of Rs. 1,25,000/- and two hundies for the equal amount. The hundies were given by way of security.

The said suit was contested by the appellant herein. The learned Single Judge by his order dated 02.12.1996 permitted the appellant-defendant to defend the suit on

deposit of Rs.2,50,000/-. Aggrieved against the said order dated 02.12.1996 of the learned Single Judge, the appellant herein filed an appeal before the Division Bench

of the High Court and the Division Bench vide order dated 11.12.1997 dismissed the appeal and affirmed the order passed by the learned Single Judge.

7. In similar facts, another Summary Suit No. 377/1995 was filed by one Mohandas C. Gurdasani (husband of deceased Neelam M.Gurdasani), respondent in

Civil Appeal No. 6082/2001 and in the said suit the learned Single Judge allowed leave to defend the suit subject to the appellant-defendant depositing Rs. 2,00,000/-

in Court. On appeal the Division Bench also affirmed the order passed by the learned Single Judge in the said Suit and dismissed the appeal filed by the appellant

herein by order dated 11.12.1997. Aggrieved against the order dated 11.12.1997 passed by the Division Bench disposing of both the appeals, the appellant is before

us by way of present appeals.

8. Since both the appeals before the High Court have been dismissed by a common order, the present appeals are taken up together for hearing and final disposal by this common order.

9. It may be mentioned here that due to non-compliance by the appellant (herein) of the order passed dated 02.12.1996 passed by the learned Single Judge, the suits were decreed by learned Single Judge in favour of the respondents-defendants vide order judgment and decree dated 27.7.1998.

10. In these circumstances, it appears that the appellant moved an application dated 1.11.2000 for permission to amend the special leave petitions in both these appeals and to challenge the judgment and decree dated 27.7.1998 passed by the learned Single Judge. It appears that no order was passed on the said applications for amendment of the special leave petitions whereby the appellant sought to challenge the judgment and decree dated 27.7.1998.

11. Be that as it may, now we allow the applications for permission to amend the special leave petitions and permit the appellant to challenge the judgment and decree dated 27.7.1998 passed by the learned Single Judge.

12. We have heard the appellant, appearing in person, as also learned counsel for the respondent. The appellant has admitted that there was a transaction whereby Rs.2,50,000/- was given to him as loan and against that he has paid back a sum of Rs.1,95,000/- to the respondent herein on Dhanteras. This is evident from the affidavit of one Geeta Shankar Sheety filed by the appellant. Therefore, it is an admitted position that a sum of Rs.55,000/- is due to be paid by the appellant to the respondent.

13. However, keeping in view the facts and circumstances of the case, we direct that the appellant shall deposit a sum of Rs.50,000/- with the High Court and on so deposit, he will be permitted to defend the suits. Accordingly, we modify the order dated 02.12.1996 of the learned Single Judge. Since the appellant preferred appeals before the Division Bench against the order dated 02.12.1996 passed by the learned Single Judge and the present appeals are preferred against the judgment and order dated 11.12.1997 passed by the Division Bench of the High Court, we are of the opinion that the judgment and decree dated 27.7.1998 passed by the learned Single Judge also need to be set aside. Consequently, we modify the order dated 02.12.1996 of the learned single Judge and set aside the judgment and decree dated 27.7.1998 as also the judgment and order dated 11.12.1997 of the Division Bench of the High Court and direct that the appellant shall deposit a sum of Rs.50,000/-

before the High Court within a period of one month from today and on the amount of Rs.50,000/- being so deposited, the appellant-defendant shall be allowed to defend both the suits before the Trial Court. After deposit of Rs.50,000/- by the appellant, as directed by us, the Trial Court shall proceed with the suits in accordance with law. Since the suits are old, we request the Trial Court to expedite hearing of the suits.

14. The appeals are partly allowed to the extent indicated hereinabove. No order as to costs.

(A.K.MATHUR)

.....J.

(ALTAMAS KABIR)

.....J.

New Delhi  
February 28, 2008