

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1800 OF 2007

BHAGYODAY COOP. BANK LTD. ...APPELLANT
VERSUS
NATVARLAL K. PATEL ...RESPONDENT

O R D E R

While issuing notice at the special leave petition stage, this court on 2nd May, 2005 passed the following order:

"Exemption allowed.

Issue notice in the special leave petition as to why the matter should not be remanded to the industrial court."

On 30th March, 2007, this court passed the following order:

"Though served nobody appears on behalf of the respondent.

Leave granted."

Having heard learned counsel for the parties and on perusal of the impugned order, it would be clear that the appellant was not heard by the High Court while entertaining the writ petition. In paragraph 5 of the impugned order, the High Court has observed as follows:

"It is true that the Appellate order passed by the Industrial Tribunal was an ex-parte order, inasmuch as that the learned Advocate for the petitioner had not remained present, may be for justifiable reasons."

In that view of the matter, we find that the liberty must be given to the appellant to contest the appeal before the Industrial Tribunal. That being the position, we set aside the impugned order of the High Court as well as that of the Industrial Tribunal and the matter is sent back to the Industrial Tribunal with a direction to decide it in accordance with law. It is expected that the matter will be decided by the Industrial Tribunal within a period of six months from the date of supply of a copy of this order to it. In the meantime, the appellant is directed to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) to the respondent within a period of one month from this date, in default of which the order passed by High Court shall stand restored.

The appeal is disposed of accordingly with no order as to costs.

.....J.
(TARUN CHATTERJEE)

.....J.
(SURINDER SINGH NIJJAR)

NEW DELHI,
DECEMBER 15, 2007.