

# SUPREME COURT OF INDIA

Vivek Financial Services

Vs.

Coimbatore Stock Exchange Ltd.

(B.P. Singh and Aaltamesh Kabir JJ.)

06.03.2006

## JUDGMENT

**B.P. SINGH, J.**

1. Leave granted.

2. We have heard counsel for the parties. The appellants before us have impugned the order of the High Court of Judicature at Madras dated 15.3.2004 dismissing the application filed by the appellants, praying for exemption from payment of requisite court fee in the appeal which he proposed to file against the judgment and decree of the Additional District Judge, Fast Track Court No. III, Coimbatore. The appellant claimed to be an indigent person and entitled to exemption from payment of requisite court fee. It is not disputed before us that the respondent herein filed counter affidavit opposing the application. The counter affidavit was served on the appellants on 12.3.2004 and the matter came up for hearing before the Court on 15.3.2004 with Saturday and Sunday intervening. The appellants request for grant of time to file a reply was refused. On the same day, a report of the Tehsildar was also produced. The grievance of the Appellants therefore, is that they had no opportunity to meet the case set up by the respondent in its counter affidavit, nor did it have opportunity of controverting the facts stated in the Tehsildar's report.

3. We do not wish to make any observation with regard to the merit of the claim of the appellants but we feel that in a case of this nature a fair opportunity should be given to the appellants to satisfy the Court that he being an indigent person is entitled to be exempted from payment of requisite court fee. In this case the court fee payable is over Rs. 3,00,000/- (Rupees Three lakhs).

4. In the facts and circumstances of the case, we set aside the impugned judgment and order of the High Court and remit the matter to the High Court to afford a reasonable opportunity to the appellants to file reply to the counter affidavit filed on behalf of the respondent, as also to file objections to the report of the Tehsildar. The High Court may thereafter pass appropriate order in accordance with law.

5. Nothing said in this order shall be construed as expression of opinion on the claim of either of the parties.

6. This appeal is, accordingly, allowed to the extent indicated above.

No order as to the costs.

