2026:AHC:209626-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 736 of 2026

Amir

.....Appellant(s)

Versus

M/s Hindustan Fruit Company Furit Vegetable Market and 2 others

.....Respondent(s)

Counsel for Appellant(s)	:	Mohd Shamim Khan
Counsel for Respondent(s)	:	Ashish Kumar Srivastava

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. This appeal is directed against order dated 22.07.2026 passed by learned Single Judge in Matters Under Article 227 No. 9539 of 2026, whereby learned Single Judge dismissed the writ petition.

2. Counsel for the respondent raised objection pertaining to the maintainability of the appeal in view of provisions of Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952.

3. The provisions of above Rule clearly provide that special appeal against order passed in a petition under Article 227 of the Constitution of India is not maintainable.

4. A Larger Bench, in the case of **Sheet Gupta Vs. State of U.P. and others : AIR 2010 ALL 46 (FB)**, has laid down as under :

> "15. Having given our anxious consideration to the various plea raised by the learned counsel for the parties, we find that from the perusal of Chapter VIII Rule 5 of the Rules a special appeal shall lie before this Court from the judgment passed by one Judge of the Court. However, such special appeal will not lie in the following circumstances:
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> > 1. The judgment passed by one Judge in the exercise of appellate jurisdiction, in respect of a decree or order made by a Court subject to the Superintendence of the Court;
> > 2. the order made by one Judge in the exercise of revisional jurisdiction;
> > 3. the order made by one Judge in the exercise of the power of Superintendence of the High Court;
> > 4. the order made by one Judge in the exercise of criminal jurisdiction;
> > 5. the order made by one Judge in the exercise of jurisdiction conferred by Article 226 or Article 227 of the Constitution of India in respect of any judgment, order or award by

(i) the tribunal,
(ii) Court or
(iii) statutory arbitrator

made or purported to be made in the exercise or purported exercise of jurisdiction under any Uttar Pradesh Act or under any Central Act, with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution of India;

6. the order made by one Judge in the exercise of jurisdiction conferred by Article 226 or 227 of the Constitution of India in respect of any judgment, order or award of

(i) the Government or
(ii) any officer or
(iii) authority,

made or purported to be made in the exercise or purported exercise of appellate or revisional jurisdiction under any such Act, i.e. under any Uttar Pradesh Act or under any Central Act, with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution of India."

5. In view of the above, the appeal is dismissed as not maintainable.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

October 7, 2026
M.Pal/AKShukla

Digitally signed by :-
MUKESH PAL
High Court of Judicature at Allahabad