

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40704
Summary Calendar

In the Matter of ANANT KUMAR TRIPATI

Debtor.

ANANT KUMAR TRIPATI,

Appellant,

VERSUS

ROBERT FRED GIRDLEY,

Appellee.

Appeal from the United States District Court
For the Eastern District of Texas

(4:97-CV-177)

June 4, 1998

Before JOLLY, BENAVIDES, and PARKER, Circuit Judges.

PER CURIAM:*

The Appellant, Anant Tripati, appeals from an order of the district court denying a writ of mandamus which seeks to compel the

*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

bankruptcy court to grant a jury trial. An order of the district court denying a mandamus petition is a final order, and therefore, appealable under 28 U.S.C. § 1291. Although the Seventh Amendment would otherwise entitle a creditor to a jury trial on its claim, when the same claim arises as part of the process by which the bankruptcy res is divided, the claim is triable in equity. See *In re Jensen*, 946 F.2d 369, 373 (5th Cir. 1991).

Because the appellant has submitted a claim against the bankruptcy estate, he is subject to the bankruptcy court's equitable power, and thus not entitled to a jury trial.

Accordingly, the order of the district court is

AFFIRMED.