

Coram: J.M.Panchal.J

Dated: 30.6.1995

ORDER.

By means of filing this petition under article 226 of the Constitution, the petitioner has prayed to issue an appropriate writ or order to direct the respondents nos 1 and 2 to take appropriate actions immediately against respondents nos 3 and 4 and their supporters. The petitioner has also prayed to direct the respondents nos 3 and 4 to restore physical possession of the premises consisting of 5 rooms situated on the first floor of the building bearing No.11/821 situated at Vada Chauta, Navsariwala Building, Surat, forth with to the petitioner.

2. On notice being issued Mr. T.S.Nanavati learned counsel has appeared on behalf of respondent no.3. Mr. H.M.Bhagat learned counsel has appeared on behalf of respondent no.4. Mr. S.R.Divetia learned Government Pleader has appeared on behalf of respondents nos 1 and 2. Mr. C.L.Soni learned counsel was requested by the court to appear as amicus curie on behalf of the petitioner and render sistance to the Court.

3. At the time of hearing of the petition the parties have presented consent terms, which are as under:

"The petitioner and the respondent nos 3 and 4 the contesting parties herein have entered into the following consent terms by which the aforesaid matter along with other companion litigations are amicably resovled.

1. The petitioner and the respondent nos 3 and 4 do hereby acknowledge and state that the petitioner and the respondent nos 3 and 4 have reached an out of court settlement consideration of which have been duly received and acknowledged by and between the petitioner and the respondent nos 3 and 4 herein. In lieu therefore, the petitioner hereby seeks permission to withdraw the aforesaid petition unconditionally, and hereby further undertakes to this Hon'ble Court to withdraw Civil Suit No. being Small Causes Suit no. 94 of 1995 filed by the petitioner

original plaintiff against the respondent no.3original defendant, unconditionally without any consideration whatsoever. The petitioner further undertakes to withdraw all proceedings initiated against the respondent nos 3 and 4 and do hereby state and declare that the petitioner has no claim right title or interest in the premises situated in the property known as Navsariwali Building, Vada Cuauta, Ward no.11/821 in Surat or in any part thereof. And do further state and declare that no proceedings civil and/or criminal shall be instituted by the petitioner against the respondent nos 3 and 4 herein in respect the aforesaid property or in respect of any right title or interest therein.

2. The petitioner undertakes to withdraw all proceedings taken in Small Causes Suit no. 94/1995 and do hereby state and recognise that the respondent no.4 is fully and legally entitled to all right title interest and possession of all that part and parcel of the property situated on the first floor of the said property known as Navsariwali Building,Wada Chauta, Ward no.11/821 in Surat and the petitioner has no claim whatsoever in respect thereto.The respondent no.4 do hereby state that the petitioner's wherewithals whatsoever in the said property as described hereinabove shall be handed over by respondent no.4. The petitioner hereby states that full complete and vacant possession of the aforesaid premises have been with the respondent no.4 and no further claim on any count whatsoever is made or shall be made against the petitioner.
3. The petitioner do further states that non of the contentions made in the aforesaid Special Civil Application are pressed and the same are hereby withdrawn unconditionally.
4. The aforesaid consent terms be taken on record and appropriate orders be passed.

AND FOR THIS ACT OF KINDNESS AND JUSTICE  
THE PETITIONER AND THE RESPONDENTS NOS. 3 and 4  
SHALL AS IN DUTY BOUND FOR EVER PRAY.

PLACE:Ahmedabad

Date:30.6.1995 sd/-petitioner

sd/-Respondent.3.

sd/-Respondent.4

The contents of this consent terms are read over explained translated interpreted to the petitioner by me in Gujarati.

sd/ C.L.Soni

Advocate for the petitioner  
Amicus curie

The contents of this consent terms are read over explained and interpreted to the respondent nos 3 and 4 in Gujarati by me

sd/- T.S.Nanavati,

Advocate for respondent nos 3 and 4"

4. The consent terms are signed by the petitioner Chandrikaben V.Shukla. She is personally present in the court and she states that the consent terms have been read over and explained to her by Mr. C.L.Soni learned counsel who has appeared as amicus curie. The respondent no.3 Kirit R.Desai who is identified by his learned counsel has also signed the consent terms . Consent terms are also signed by the respondent no.4 who is present in the court The consent terms are taken on record of the petition.

5. In view of the contents of the consent terms, the petitioner who is present in the court, seeks permission to withdraw this petition. Permission to withdraw the petition is granted. The petition stands disposed of as having been withdrawn in terms of agreement arrived at between the parties. Notice is discharged with no order as to costs.

6. Before parting with the order I place on record my uninhibited high appreciation of the valuable and painstaking assistance rendered by Mr. C.L.Soni, learned counsel who appeared in this petition as amicus curie.

(J.M.PANCHAL.J)