

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 503 of 1997

in

CIVIL APPLICATION No. 779 of 1997

For Approval and Signature:

Hon'ble MR. JUSTICE C.K. THAKKER

and

MR. JUSTICE S.D. PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DHANVANTRAI CHAMPAKLAL KAUSHIK

Versus

STATE OF GUJARAT

Appearance:

MR JT TRIVEDI for Petitioners

SERVED for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE S.D.PANDIT

Date of decision: 30/06/97

ORAL JUDGEMENT

Admitted.

In the facts and circumstances of the case, matter is taken up for final hearing today.

This appeal is directed against an order passed in Special Civil Application No. 2329 of 1984 dismissing the petition for default and an order dated April 7, 1994 dismissing Misc. Civil Application No. 779 of 1997 for restoration.

The main petition was filed in 1984 which it was admitted. On March 6, 1997, when the petition was called out for final hearing before the learned Single Judge, the same was dismissed for default on account of absence of learned advocate for the petitioner. When the learned advocate for the petitioner came to know about that fact, he made an application wherein it was mentioned that the reason for absence of counsel for the petitioner was that on that day advocates abstained from working. According to the learned Single Judge that could not be said to be "a sufficient cause" so as to restore the matter.

In the facts and circumstances of the case, the appeal deserves to be allowed and orders passed in Misc. Civil Application No. 779 of 1997 and Special Civil Application No. 2329 of 1984 deserve to be set-aside. They are, accordingly, set-aside. The matter must now be placed for hearing before the learned Single Judge, in accordance with law. We may clarify that we have not expressed any opinion on merits one way or the other. No costs.

Prakash*