

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1337 of 1996

in

SPECIAL CIVIL APPLICATION No 3594 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE H.L.GOKHALE

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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?

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ISHWARLAL M RAVAL

Versus

AHMEDABAD MUNICIPAL CORPN

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Appearance:

MR KS ACHARYA for Petitioners  
MR SM MAZGAONKAR for Respondent No. 1

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE H.L.GOKHALE

Date of decision: 31/03/97

ORAL JUDGEMENT (PER C.K.THAKKER J.)

Admitted. Mr.S.N.Shelat, appears and

waives service of notice of admission on behalf of the Respondent. In the facts and circumstances of the case, this LPA is taken up for final hearing.

This appeal is filed against the order passed by the learned Single Judge in Special Civil Application No. 3594 of 1983. The petition filed by the petitioners-appellants came to be dismissed by the learned Single Judge. In operative part of para 5, however, the learned Single Judge has observed as under:

"In the result, this Special Civil Application fails and the same is dismissed. It is a case where the petitioners have abuse the process of court, and as such, they are directed to pay Rs.1000/- each as costs of this petition to the respondent. The respondent Corporation is directed to realise the amount of this cost from the petitioners' salary at the monthly instalment of Rs.200/-. Rule is discharged. Ad.interim relief, if any, granted by this court stands vacated. "

Looking to the order passed by the learned Single Judge, it cannot be said that on merits it requires any interference by appellate court. Mr. Acharya, however, states that in the facts and circumstances of the case and considering the contentions raised on behalf of the appellants, order awarding costs passed by the learned Single Judge was not called for. He submitted that there is no abuse of the process of court. We have also heard Mr.S.N.Shelat appearing on behalf of the Respondent. In the facts and circumstances of the case, in our opinion, order of costs requires to be set aside and is accordingly set aside. The appeal is accordingly partly allowed without disturbing the final part except the costs. No order as to costs.

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