

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1121 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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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?

ISMAIL TAHERALI BAJI

Versus

KANAIYALAL POPATLAL PANCHAL

Appearance:

MS KJ BRAHMBHATT for Petitioner

MR CJ VIN for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 30/03/99

ORAL JUDGEMENT

The petitioner-plaintiff had filed a suit for recovery of Rs. 99,000/- from the respondent-defendants. The suit was based on a promissory note. The defendants, however, raised certain objections regarding the legality and validity of the promissory note and, therefore, the plaintiff filed application Exh. 59 praying for leave to produce another document called 'Karar-khat' to support the plaintiff's case and to prove the consideration. The trial Court has rejected the said application and, therefore, the plaintiff has filed the present revision

application.

2. It appears that the trial Court has committed a material irregularity by not considering that merely because the suit is based on the promissory note, the plaintiff is not precluded from leading such evidence to prove the transaction and leading such evidence would not change the nature of the suit. It is also required to be appreciated that it is the plaintiff's suit for recovery of the suit amount and, therefore, the plaintiff was not to gain anything by delaying the proceedings. At the most, the trial Court could have imposed costs for late production of the document, but the production of the document could not be said to be irrelevant to the subject matter of the suit.

3. In view of the aforesaid, the revision application is allowed. Application Exh. 59 filed by the petitioner in Special Civil Suit No. 95/95 pending on the file of the learned Civil Judge (S.D), Godhra is allowed and the petitioner is permitted to produce the document in question. The learned counsel for the petitioner states that the petitioner has got only a photostat copy of the said document and that the original is with the defendants.

4. It is clarified that production of the said document would not amount to any admission on the part of the defendants about execution of the document or any admission about the contents thereof.

5. The revision application is accordingly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

Sd/-

March 30, 1999 (M.S. Shah, J.)

sundar/-