

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION NO. 1634 OF 1999

with

CIVIL REVISION APPLICATION NO. 1635 OF 1999

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

Dr.Gulabbhai Vasanji Naik

VERSUS

Shardaben Thakorebhai Gandhi

Appearance:

Mr.B.B.Naik for petitioners

Mr.D.D.Vyas Sr.Advocate with Mr.Daxesh Mehta for respondents

Coram: MR.JUSTICE S.K. Keshote,J

Date of order: 30/12/1999

C.A.V. JUDGMENT

#. Rule. Mr.D.D.Vyas waives service of rule on behalf of respondents.

#. The facts of these civil revision applications are not required to be given in detail as there is a consensus between learned counsel for the parties that these matters may be decided according to their

consensus.

#. In the first revision application, the application filed by defendants-petitioners for amendment of written statement came to be rejected under the impugned order dated 13.9.99 of Civil Judge (J.D.) Chikhali in Regular Civil Suit No.7 of 1990 below ex.151.

#. The learned counsel for the plaintiffs-respondents has no objection in case this amendment of written statement prayed for by defendants-petitioners is granted. Accordingly this revision application succeeds and the same is allowed and the order dated 13th September 1999 of the Civil Judge (J.D.) Chikhali in Regular Civil Suit No.7 of 1999 below ex.151 is quashed and set aside and the amendment as prayed for by the defendants-petitioners is granted. Rule is made absolute accordingly with no order as to costs.

#. In the second civil revision application, the defendants-petitioners are challenging the order of the Civil Judge (J.D.) Chikhali dated 13.9.99 below ex.149 in Regular Civil Suit No.8 of 1990 under which the application filed by them for amendment in the issues came to be rejected.

#. The learned counsel for the parties are in agreement that they have framed the issues in the case and the learned trial court may be directed to frame and proceed on the issues accordingly. Order accordingly. The translation of issues as framed in agreement are as under:

1. Whether the plaintiff proves that the property in dispute was given to deceased Dr.Gulabbhai Vasanji Naik only for the purpose of business?
2. Whether the defendant proves that the property in dispute was given to deceased Dr.Gulabbhai Vasanji Naik for the purpose of residing along with family as well as for business purpose?
3. In view of the pleadings of the parties, which property was in the name of defendants by way of tenancy rights and runs accordingly?
4. Whether it is proved that the plaintiff landlord has given attornment notice to the defendants?
5. Whether the plaintiffs prove that the original defendant No.1 - Dr.Gulabbhai Vasanji Naik has sub-let the suit property to defendant No.2?

6. Whether the suit of the plaintiffs, without issuance of notice under the provisions of Section 12(2) of the Bombay Rent Control Act, is tenable at law?

7. Whether the plaintiffs prove that the original defendant No.1 had committed breach of terms of tenancy, as stated in the plaint?

#. To avoid any mistake in translation or to have what the parties agreed the court below may go on with the issues framed in Gujarati. Sheet of the issues framed with agreement by the counsel be sent to the trial court with writ.

#. The learned trial court is at liberty to examine the issues and if it considers that the some amendment therein is to be made, it may do so, however, after keeping in view the two facts that the issues were framed with consent of the parties and secondly that it may be done only after hearing the learned counsel for the parties. The civil revision application No.1635 of 1999 is allowed to aforesaid extent. Rule in this civil revision is made absolute accordingly with no order as to costs.