

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD  
CIVIL REVISION APPLICATION No 1003 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
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? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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GANPATSINH UMEDSINH CHAUHAN

Versus

HEIRS AND LEGAL REPRESENTATIVE OF DECEASED BALVANTSINH CHAUHAN

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Appearance:

MR AJ PATEL for Petitioner

MR PRADEEP PATEL for Respondent No. 1, 2, 3, 4, 5,6,  
7, 8

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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 30/06/2000

ORAL JUDGEMENT

After dictating the judgment on 23.6.2000, but before it was signed, by agreement of both the sides, the main Revision Application is again taken up for final hearing and, therefore, this revision application is again heard today after recalling the judgment passed on 23.6.2000.

The present applicant is the original defendant, against whom the the opponent-plaintiffs filed a suit, being Civil Suit No.8 of 1990, in the Court of Civil Judge (J.D.), Umreth. Along with the suit, Exhibit 5 application was also made. The learned trial Judge, after hearing both the sides, has granted injunction in favour of the original plaintiffs.

The aforesaid order was challenged by the original defendant b....

Civil Appeal 61 of 1990. The appellate Court, while dismissing the appeal, made certain observation to the

effect that there was no contrary order of the tenancy authorities in favour of the original plaintiffs and, ultimately, the aforesaid appeal was dismissed by the appellate court by judgment and order dated 20th March, 1995. The aforesaid order of the appellate Court is impugned in this revision application at the instance of the original defendant.

At the time of hearing of this revision application, it was pointed out by Mr.A.J. Patel, learned Advocate for the applicant, that the order of status quo is in force till the date when the revision application was admitted by this Court. This Court, while admitting the C.R.A., has passed the following order :-

.....J.....T.....T.....T.....T.J.....J.....T.....T.....T.

"... Rule. Status quo as on today to be maintained by the parties. Notice as to int. relief returnable on 16.8.95 ...."

Mr.Patel pointed out that when the appeal was pending, parallel proceedings under the Tenancy Act were also going on and when father of the present respondents Balvantsinh Chauhan filed Revision Application before G.R.T., being TENBA Nos. 13/93, 16/93 and 17/93, the G.R.T. granted order of status quo, by staying the order of the Deputy Collector. The copy of the aforesaid orders are kept on record. Both the sides inform this Court that the aforesaid revision is still pending before the G.R.T. But, it seems that the learned appellate Judge has taken into account only the order of the Deputy Collector. However, the fact remains that Revision Applications are pending before G.R.T. and there is already an order of status quo, which is given in the revision application, which is filed at the instance of the present respondents. There is, therefore, already an order of status quo granted by the Gujarat Revenue Tribunal and that status quo order is prior in time, i.e. before the District Court disposed of the aforesaid appeal. The aforesaid order of status quo is required to be maintained during the pendency of the present suit. Not only that, even while this Court admitted the revision application, the status quo order is already granted by this Court, which is prevailing since considerable time. In that view of the matter, and in view of the fact that the G.R.T. has also granted an order of status quo, the status quo granted earlier by this Court is required to be confirmed till the civil suit is disposed of by the civil court on its own merits.

In the aforesaid facts and especially when there is already an order of status quo, which is already prevailing before the appellate court disposed of the appeal, I accept the say of Mr.A.J. Patel, learned Advocate for the petitioner, that the said status quo order is required to be confirmed at interim stage and till the suit is disposed of finally. The civil court cannot grant any contrary order than the one granted by the tenancy court under the Bombay Tenancy Act. Even on the principle of judicial comity, no contradictory order can be allowed to be passed. In that view of the matter, without considering other points on merits, on the principle of judicial comity as well as on the ground that there is already a status quo order passed by the G.R.T., this Revision Application is required to be allowed.

Rule is accordingly made absolute to the aforesaid extent and it is ordered that the status quo prevailing on the date of filing of this C.R.A. should be maintained by both the sides till the suit is disposed of on merits. No order as to costs.

The aforesaid suit is of 1990. In that view of the matter, the aforesaid suit, being Regular Civil Suit No.8 of 1990, pending before the Civil Judge (J.D.), Umreth is ordered to be disposed of by 30th December, 2000. Both the sides have assured this Court that they will not ask for any unnecessary adjournments and they will cooperate for the earlier disposal of the aforesaid suit by the aforesaid time period. They will see that the witnesses are kept present at the time of recording the evidence so that the suit is not required to be adjourned for that purpose. In that view of the matter, the trial court should see that in any case, the suit should be decided by the aforesaid date.

Writ of this order may be sent to the Civil Judge (Junior Division), Umreth forthwith for compliance.

30th June, 2000 ( P.B. Majmudar, J. )

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(apj)