

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1624 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
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? : NO

STATE OF GUJARAT

Versus

SARANI GOPALJI GOKALDAS

Appearance:

Mr.R.V. Desai, Assistant GOVERNMENT PLEADER,
for Petitioner

MR SURESH M SHAH for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 29/09/2000

ORAL JUDGEMENT

This Revision Application is filed by the State Government challenging the order passed by the Executing Court in Regular Execution Petition No.46 of 1992, which was pending in the Court of Civil Judge (S.D.), Junagadh. The execution application was filed by the original decree holder one Surani Gopalji Gokaldas, who was serving at the relevant time as a Sub Treasury Officer.

The question involved was regarding paying benefits to him arising out of the decree in the civil suit, which related to deemed date of promotion and other benefits which were available to him under the decree.

During the pendency of this Revision Application, unfortunately, the said opponent died.

I have heard Mr.R.V. Desai, A.G.P. for the applicant. I have also heard Mr.S.M. Shah for the purpose of getting his assistance in disposing of this Revision Application.

There is consensus also between the parties, i.e. the applicant and Mr.Shah, to the effect that from whatever amount which has been paid by the Government to deceased original plaintiff Surani Gopalji Gokaldas, no amount is to be recovered from his heirs and if at all any additional amount is required to be paid as per the order of the executing court, which is impugned in this Revision Application, the execution may not be proceeded further for getting any such additional amount. The effect is that, whatever amount is given to the deceased, the plaintiff-decree holder, the Government is not to recover any amount from his heirs and if any amount is required to be paid as per the order of the executing court, the heirs of the decree holder may not proceed further with execution for the purpose of the same. The effect is that nothing is required to be paid by the Government to the heirs of the deceased as per the decree and the Government is not to recover anything from the heirs and things should be treated as closed as the deceased has died since long and I am told by the A.G.P., on instructions from the concerned person from the Department, that regular pension is being paid to his heirs. The A.G.P. has also clarified that no amount in any way will be deducted from the pension which the wife of the deceased is getting. It is, however, clarified that since the heirs are not on record, and if there is any objection to any of the heirs of the deceased regarding this order, it will be open for them to make necessary application before this Court and this Court at that time will pass an appropriate order for reviewing this order. This order is passed only because of the fact that the proceedings are very old and the original decree holder has already died since long and things which are more or less academic may not be required to be reopened and the parties may not have to continue with this litigation, if it has become academic. Mr.Shah on the request of the Court has assured the Court that he will inform the heirs of the decree holder about this order and in case of any difficulty, he will make necessary application for reviewing this order.

It is clarified that this Revision Application is disposed of without deciding the same on merits.

Revision Application is disposed of accordingly.
Rule is discharged. Interim relief is vacated. No order
as to costs.

Liberty to apply in case of difficulty.

29th September, 2000 (P.B. Majmudar, J.)

(apj)