

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3473 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 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

CHANDUBHAI JASHMATSINGH

Versus

DISTRICT COLLECTOR

Appearance:

MR TR MISHRA for Petitioners
MR RV DESAI, AGP for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 30/03/2001

ORAL JUDGEMENT

#. Heard Shri TR Mishra, learned counsel for the
petitioner and Shri RV Desai, learned AGP for the
respondent. Counter affidavit has been filed by the

respondent. As such, the petition is proposed to be disposed of finally at the admission stage.

#. On an application under sec.15 of the Payment of Backwages Act, an order was passed by the competent Authority vide Annexure-'A' on 23-11-1994 directing the opponent, namely, Manager/Proprietor of Adler Sewing Machine Works to pay the applicants a sum of Rs.41,800=00 as backwages and was further directed to pay Rs.2,260=00 towards court fee to the State Government and Rs.500=00 as cost.

#. In compliance of this order, nothing was done by the respondent, hence, recovery certificate was issued by the competent Authority under Payment of Backwages Act on 10-9-1997, which was forwarded to the Collector, Ahmedabad by recovering a sum of Rs.42,300=00 as arrears of land revenue.

#. The grievance of the petitioner is that the Collector did nothing to execute the recovery certificate, and on account of this inaction, the property of the respondent was auctioned by the Bank of India and State Bank of India in the year 1999. It may be noted that, at that time, recovery certificate was already issued and was pending with the Collector.

#. In the counter affidavit, this fact has been admitted. However, it has been stated that because there is no property with the opposite party, which can be attached, auctioned, and amount recovered, hence, recovery certificate can not be executed. Today, additional affidavit has been filed by the petitioner disclosing that the establishment of Adler Sewing Machine Works is a partnership firm in which Shri Manubhai Haribhai Patel and Mukundbhai Haribhai Patel are the partners and that Flat No.106/1, Sant Mer Flats, Nr.Udgam School, Drive-in Road, Thaltej, Ahmedabad is owned by the respondent. After discovering this fact, the petitioner requested Shri RM Shah to take immediate steps as the property belongs to Shri Mukundbhai H.Patel, who is the partner of the respondent's establishment and to proceed against this property, but again no action was taken. Under these circumstances, the petitioner has reasonable cause to believe that the Mamlatdar is willfully and deliberately not taking any action in the matter. It is also deposed in the additional affidavit that, on several occasions the petitioner, alongwith two workers, met Shri RM Shah and requested him to take immediate steps, but for the reasons best known, no action has been taken. The additional affidavit filed today has not been

controverted.

#. As such, the petition is finally disposed of with direction to the respondent no.1 to proceed to execute the recovery certificate against the respondent no.2 in respect of Flat No.106/1, Sant Mer Flats, Nr.Udgam School, Drive-in Road, Thaltej, Ahmedabad and recover the amount mentioned in the recovery certificate within a period of two months from the date of receipt of copy of this judgment. No order as to cost. Direct service is permitted.

March 30, 2001. [D.C. Srivastava, J.]

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