

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11325 of 2001
with
SPECIAL CIVIL APPLICATION No 11327 of 2001
with
SPECIAL CIVIL APPLICATION No 11328 of 2001
with
SPECIAL CIVIL APPLICATION No 11329 of 2001
with
SPECIAL CIVIL APPLICATION No 11332 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 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

R U RAVAL & OTHERS

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11325,11327, 11328, 11329 and 11332 of 2001
MR AS PANDYA for Petitioner No. 1
MR AD OZA GOVERNMENT PLEADER with
MR AY KOGJE AGP for Respondent No. 1
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CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 31/01/2002

COMMON ORAL JUDGEMENT

1. I have heard Mr. Pandya, learned advocate for the petitioner and Mr. Kogje, learned AGP for the respondent State and considering the challenge in all these petitions, with the consent of Mr. Pandya and Mr. Oza, learned GP, I propose to dispose of all the petitions by this common judgement.

2. Considering the prayer and order issuing notice passed by my brother Justice (Coram : Ravi R. Tripathi, J.) dated 7th December, 2001, in all the matters Rule. Mr. Kogje, learned AGP waives service of Rule for respondent State in all the matters and with the consent of learned advocates, Rule is fixed forthwith. Petitioner in respective petitions have challenged the order passed by the learned Principal Judge, City Civil Court, Ahmedabad dated 31st July, 2000. The petitioner of petition Nos. 11325/01, 11327/01, 11328/01, 11332/01 were the retired Government servants and in petition no. 11329/01, the petition is filed by the widow of a Government servant. The petitioners in all the petitions and husband of petitioner in SCA No. 11329/01 were occupying the Government quarters allotted to them and it is an admitted fact that on superannuation, they have retired from the Government service and inspite of retirement from Government service, they have not handed over the government quarters to authority. As they have not handed over the Government quarters to the respondent authority, the respondent authority had to initiate proceedings by resorting provisions of the Gujarat Public Premises (Eviction of Unauthorised Occupants), Act, 1972 (hereinafter referred to as "the Act") and in said proceedings, the Competent Authority under the Act has passed order for eviction of the petitioners including the husband of the petitioner in SCA No. 11329/01. The petitioners and husband of the petitioner in SCA No. 11329/01 has also challenged the said order of eviction passed against them by preferring appeals before the City Civil Court at Ahmedabad and respective appeals were registered before the City Civil Court being Appeal Nos. 41/2000, 44/2000, 50/2000, 54/2000 and 47/2000 respectively. Alongwith appeals, they have also presented an application for interim injunction for not implementing the eviction order passed by the respondent and the said injunction was granted. In all the petitions, the petitioners have prayed on humanitarian ground for extension of time to hand over the possession of the quarters occupied by the respective petitioners and the prayer is that they may be permitted to occupy the said quarters upto 31st May, 2002. In each petition,

on going through the petition, each petitioner has while seeking extension of time have also prayed on humanitarian ground by highlighting their difficulties namely that either children or grant sons are taking education and they are prosecuting their studies. If they are required to hand over the quarters, their education will suffer. In one petition, the ground is also of the illness of his wife, who is taking treatment at the Civil hospital and she is required to follow up treatment.

3. As found from the judgment and order passed by the learned Principal Judge, City Civil Court, Ahmedabad in Civil Appeals preferred by the petitioners, wherein, the petitioners have preferred appeals under Section 9 of the Act against the order passed by the Competent Authority in Eviction case as the petitioners have not handed over the possession of the quarters to the respondent authority and the authority had after following the procedure prescribed under the Act and Rules has passed the order evicting the petitioners. As found from the judgment, in the appeals filed by the petitioners, the petitioners have filed purshis Ex. 12 by highlighting that as due to monsoon and the petitioners - appellants are in search of alternative accommodations, they have prayed for 18 months time to vacate the premises in question and the appellants have also raised all the contentions raised in the appeal. The said purshis was objected by the learned AGP and considering the submissions, the learned Principal Judge, City Civil Court, Ahmedabad has granted 6 months time namely upto 31.1.2001 by allowing the appeals partly and the petitioners - appellants were permitted to occupy the quarters in question upto 31st January, 2001 by imposing conditions that under no circumstances, the time will not be extended and the petitioners-appellants shall regularly pay rent of the premises in question as per the Rules and Regulations till the appellants occupy the said premises. The learned Principal Judge has accordingly, disposed of all the appeals.

4. As found from the petitions that the petitioners had moved the learned Principal Judge of the City Civil Court for extension of time to hand over the premises and though the learned Principal Judge earlier has passed order that no further extension be granted, the Court has considering the difficulties of the petitioners has extended the time to vacate the premises upto 31.1.2001, as the petitioners were required to hand over the premises in question to the respondent authority by 31.1.2001, the petitioners had approached this Court by

filing these petitions on 1.1.2001 seeking prayer for extension to occupy the quarters in question upto 31st May, 2002 on humanitarian grounds stated in the petitions and also on the ground that the petitioners are in search of suitable alternative accommodation after earthquake.

5. An affidavit-in-reply is filed by the respondent by highlighting the fact that even after retirement, the petitioners have not handed over the quarters in question to the authority and authority has to initiate proceedings under the Act and as per the order passed by the learned Principal Judge, City Civil Court, the time to vacate the premises was extended upto 31st January, 2001 and therefore, the petitions are not maintainable and prayed for dismissal of the petitions.

6. As found from the order passed by my brother Justice (Coram : Ravi R. Tripathi, J.) that considering the prayer made in the petitions, the Court has issued notice to the respondents in all the petitions on condition that the petitioner of respective petition shall file the undertaking by 11.12.2001 to the effect that they will vacate quarters latest by 31st May, 2002. I have gone through the undertakings filed by the petitioners. The undertakings are not properly worded, as if reading the undertakings, it show that the court has extended the time to hand over the premises upto 31st May, 2002. Even the reason for extension of time as sought for as highlighted in the petitions are also not acceptable to the Court as the petitioners have not disclosed any particulars. However, keeping in mind that this Court is hearing the petitions on the last day of the month of January, 2002 and the petitioners have by virtue of the prayer for extension has hardly four months and on humanitarian ground, I am inclined to extend the time to vacate the quarters as prayed for by the petitioners on the following conditions :-

(i) The petitioner in each case, shall filed
undertaking to this court incorporating
that the petitioner of respective
petition shall hand over vacant and
peaceful possession of the quarters in
question to the respondent authority on
or before 31st May, 2002.

(ii) The petitioners shall clear all the
arrears of rent, which was payable by the
petitioners as per Rules. Arrears of rent
upto January, 2002 to be deposited with
the respondent authority before end of

February, 2002.

(iii) The rent for the months of February, 2002 to May, 2002 will be deposited regularly with the respondent Authority at the end of each month.

(iv) The petitioners will not make any application for further extension of time.

Mr. Pandya, learned advocate for the petitioners has requested for time to file undertaking of each petitioner upto 12th February, 2002. Considering the request to file undertaking is granted upto 12th February, 2002. It is also directed that each petitioner shall furnish the copy of the undertaking to the respondent authority as well as to the office of the Government Pleader. If the undertaking is not filed within the stipulated time, the liberty is granted to the respondent authority to move this court for appropriate orders.

7. Accordingly, all these petitions are disposed of. Rule is made absolute. However, there shall be no order as to costs. This order is passed considering the facts made out in the present petitions and only on humanitarian ground and the same will not follow any precedent.

(D.K. Trivedi, J.)
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