

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6987 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

=====

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 concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

SAVAR KUNDLA TALUKA SAHKARI KHARID VECHAN SANGH LTD.

Versus

GUJARAT STATE CO OP MARKETING FEDERATION LTD.

Appearance:

1. Special Civil Application No. 6987 of 2003
MR BM MANGUKIYA for Petitioner No. 1
MR KS JHAVERI for Respondent No. 1,3,6-7
..... for Respondent No. 2,4-5
-

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 30/05/2003

ORAL JUDGEMENT

Mr.K.S.Jhaveri, the learned advocate appearing

for the respondents has submitted that he has already filed appearance on behalf of the respondents Nos.1,3,6 and 7 and for rest of the respondents he shall file his appearance in course of the day.

Earlier this Court has passed order on 26th May, 2003 and granted interim relief in terms of paragraph 21(C), whereby the respondents Nos.2 to 6 are restrained from functioning, working and/or enjoying or exercising any rights or privileges as a member of the respondent No.1.

The petitioner has filed the present petition before this Court only on the short ground that Arbitration Suit was filed before the Board of Nominees, Bhavnagar, and as he was not available, it was assigned to the Nominee Court at Rajkot. However, it was adjourned to 20th June, 2003 and hence Application Ex.5 preferred by the petitioner was not taken up for hearing.

Mr.Mangukiya, the learned advocate appearing for the petitioner submits that despite the request made by the petitioner the Application Ex.5 was not heard and hence, the petitioner is left with no alternative but to prefer the present petition before this Court.

Mr.Jhaveri, the learned advocate appearing for the respondents submits that the respondents are ready and willing to go on with the hearing of the matter before this Court, and if the Nominee Court is directed to take up the hearing of the matter on priority basis the grievance raised by the petitioner in the present petition can be redressed. Mr.Jhaveri further submits that on the basis of the interim order passed by this Court, the petitioner's name may not be deleted from the voters' list and the same may be done in accordance with the order of the Nominee's Court after by-parte hearing of the Application Ex.5.

After having heard the learned advocates for the respective party and after considering the facts and circumstances of the case, I am of the view that the interest of justice would be served if the Nominee Court, Rajkot is directed to take up the hearing of the Application Ex.5 on 3rd June, 2003.

It is submitted by the learned advocates appearing for both the parties that the petitioner and the respondents shall cooperate in the hearing of the Application Ex.5. Accordingly, the Nominee Court, Rajkot is directed to hear the Application Ex.5 preferred by the

petitioner in Arbitration Suit No.111/2003 on 3rd June, 2003. Until the hearing of the said application that may be taken up on 3rd June, 2003, the interim order passed by this Court on 26th May, 2003 is continued. If, for any reason, the hearing could not be taken place on 3rd June, 2003, it is open to the parties to request the Nominee Court, Rajkot for appropriate order.

It is made clear that on the basis of the interim order granted by this Court on 26th May, 2003, the names of the respondents Nos.2 to 6 can not be deleted from the voters' list and it is subject to the outcome of the Application Ex.5 in Arbitration Suit No.111/2003.

It is also made clear that while deciding the Application Ex.5, the Nominee Court may not be influenced by the fact that the interim relief is granted by this Court, as this Court has not gone into the merits of the case.

With the above observation, the present petition is disposed of with no order as to cost. Notice is discharged. Direct service is permitted.

(K.A. Puj, J.)

/sakka