

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 13906 of 2008
With
SPECIAL CIVIL APPLICATION No. 13907 of 2008
TO
SPECIAL CIVIL APPLICATION No. 13910 of 2008

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the Civil
Judge?

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SUKHABHAI LAXMANBHAI CHAUHAN - Petitioner(s)
Versus
TATA CHEMICALS LIMITED - Respondent(s)

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Appearance :

MR SP MAJMUDAR for Petitioner(s) : 1, MR PP MAJMUDAR for Petitioner(s)
: 1,
MR.VARUN K.PATEL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 28/11/2008

ORAL JUDGMENT

1. By way of these Special Civil Applications under Article 227 of the Constitution of India, respective petitioners – original plaintiffs have

prayed for appropriate writ quashing and setting aside the impugned order dated 20.10.2008 passed by the learned Appellate Court i.e. learned Presiding Officer, Fast Track Court No.1, Khambhaliya in Civil Misc.Appeal No.86 of 2007, 88 of 2007, 85 of 2007, 10 of 2008 and 09 of 2008 in allowing the aforesaid appeals by quashing and setting aside the order dated 22.10.2007 passed by the learned Principal Civil Judge, Dwarka below Exh.5 in Regular Civil Suit Nos.74 of 2007 to 76 to 2007 and Regular Civil Suit No.78 of 2007; order dated 23.10.2007 passed below Exh.5 in Regular Civil Suit No.68 of 2006; order dated 15.01.2008 passed below Exh.5 in Regular Civil Suit No.102 of 2007 and order dated 15.01.2008 passed below Exh.5 in Regular Civil Suit No.103 of 2007.

2. It appears from the record that the respondent – Company issued respective notices demanding compensation for occupying premises and also electricity charges etc., which came to be challenged by the petitioners – original plaintiffs by way of aforesaid suits. In the respective Suits, respective petitioners – original plaintiffs submitted application Exh.5 for interim injunction and the learned Principal Civil Judge, Dwarka by respective orders dated 22.10.2007, 23.10.2007 and 15.01.2008 allowed the said applications partly restraining the respondent-Company from disconnecting electricity, water supply and basic amenities on condition that petitioners - plaintiffs pay / deposit 50% of the demand and continue to pay 50% of the same

till final disposal of the respective suits. Being aggrieved and dissatisfied with the respective orders dated 22.10.2007, 23.10.2007 and 15.01.2008 passed by the learned Principal Civil Judge, Dwarka below Exh.5 in aforesaid suits, the respondent – herein preferred Civil Misc.Appeal Nos. Misc.Appeal No.86 of 2008, 88 of 2008, 85 of 2008, 10 of 2008 and 09 of 2008 before the learned Appellate Court and the learned Presiding Officer, Fast Track Court No.1, Khambhaliya by impugned orders allowed the said appeals by quashing and setting aside the orders passed by the learned trial Court below Exh.5. It is also required to be noted that it appears that even the petitioners also filed cross objections in the said appeals and they are treated having been dismissed. Being aggrieved and dissatisfied with the impugned order dated 20.10.2008 passed by the learned Presiding Officer, Fast Track Court No.1, Khambhaliya passed in Civil Misc.Appeal No.Misc.Appeal No.86 of 2008, 88 of 2008, 85 of 2008, 10 of 2008 and 09 of 2008, the petitioners – original plaintiffs have preferred present Special Civil Applications under Article 227 of the Constitution of India.

3. When this group of petitions came to be heard today, there is broad consensus under the instructions from their clients between the learned Advocates appearing on behalf of the respective parties that let the proceedings initiated by the respondent – Company under Section 630 of the Companies Act against the petitioners be decided and

disposed of at the earliest and in the meantime, the respective petitioners – plaintiffs to pay 70% of the demand with effect from 01st December, 2008 and even the respective suits be also ordered to be expedited and directed to be decided and disposed of within stipulated time. Aforesaid would be absolutely by way of interim arrangement only without prejudice to the rights and contentions of the respective parties and subject to ultimate outcome of the suits as well as the proceedings under Section 630 of the Companies Act.

4. In view of above broad consensus between the learned Advocates appearing on behalf of the respective parties under the instructions from respective clients, present group of petitions are disposed of by directing the learned trial Court, Dwarka to decide and dispose of proceedings initiated by the respondent against the petitioners – plaintiffs under section 630 of the Companies Act at the earliest. All concerned are directed to cooperate the learned Principal Civil Judge, Dwarka for early disposal of the aforesaid proceedings. In the meantime respective petitioners – plaintiffs to pay 70% of the demand commencing from 01st December, 2008 and to continue to pay same regularly. The learned trial Court is also directed to decide and dispose of the respective suits at the earliest but not later than 30th September, 2009 positively. All concerned are directed to cooperate learned trial Court in early disposal of the aforesaid suits. Until and

unless appropriate orders are passed by the Competent Court with respect to possession, respondent – Company is directed not to disconnect electricity, water supply etc. on the aforesaid condition of deposit of 70% of the demand made by the respondent – Company. Orders passed by both the Courts below are modified to the aforesaid extent. It is made clear that aforesaid would be purely *ad-hoc* and by way of interim arrangement only and same would be without prejudice to the rights and contentions of the respective parties in respective proceedings. It goes without saying that as present order has been passed on consensus and in the peculiar facts and circumstance of the case and therefore, same cannot be cited as precedent. With these directions, all the petitions are disposed of accordingly. Direct service is permitted.

[M.R.Shah,J.]

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