

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CIVIL REVISION APPLICATION No. 14 of 2008

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

=====

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 ?

=====

JAMNADAS RAMANLAL MODI - Applicant(s)

Versus

COURT FEES INSPECTOR & 6 - Respondent(s)

=====

Appearance :

MR NA SHAIKH for Applicant(s) : 1,

MR KABIR HATHI, AGP for Respondent(s) : 1 - 7.

=====

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 30/03/2012

ORAL JUDGMENT

1. The present Civil Revision Application under Section 115 of the Code of Civil Procedure has been preferred by the applicant-original plaintiff challenging the impugned order passed by the learned trial Court below Exh. 12 in Special Civil

Suit No. 58/2000 by which on a reference made by the Court Fees Inspector, Vadodara the learned trial Court has directed the applicant-original plaintiff to pay the deficit court fees of Rs. 15,800/-.

2. The applicant-original plaintiff instituted Special Civil Suit No. 58/2000 for declaration that he is the absolute and the exclusive owner and is in possession of the disputed suit property in question. It appears that the applicant-original plaintiff paid the Court fees of Rs. 100/- only on the ground that the suit is for declaration. Considering the nature of the relief sought in the plaint the Court Fees Inspector, Vadodara made a reference to the learned trial Court at Exh. 12 by submitting that the applicant-original plaintiff is liable to pay the court fees on valuation of Rs. 6 lakhs, which comes to Rs. 15,950/- and the applicant-original plaintiff has paid the Court fees of Rs. 100 only and, therefore, deficit Court fees of Rs. 15,850/- is to be paid. The application was opposed by the applicant-original plaintiff by submitting that the applicant-original plaintiff has rightly paid the court fees of Rs. 100/- as it was a suit for declaration only. After considering the objections submitted by the applicant-original plaintiff and considering the nature of the relief sought in the suit, the learned trial Court by impugned order has allowed the said reference and has directed the applicant-original plaintiff to pay the deficit court fees of Rs. 15,850/-. Being aggrieved and dissatisfied with the impugned order passed by the learned trial Court below Exh. 12 in Special Civil Suit No. 58/2000, the applicant-original plaintiff has preferred the present Civil Revision Application under Section 115 of the Code of Civil Procedure.

3. Today, when the present Civil Revision Application is taken up for final hearing, the learned advocate appearing on behalf of the applicant-original plaintiff has chosen to remain absent. Considering the fact that the present Civil Revision Application is of the year 2008 and it is sufficiently adjourned, the hearing of the present Civil Revision Application is proceeded further ex parte.

4. Having heard Shri Kabir Hathi, learned AGP appearing on behalf of the respondent and considering the impugned order passed by the learned trial Court and the reliefs sought in the plaint/suit for declaration that the applicant-original plaintiff has become the absolute owner and occupier and is in possession of the disputed property, the valuation of which is Rs. 6 lakhs, it cannot be said that the learned trial Court has committed any error and/or illegality in directing the applicant-original plaintiff to pay the deficit court fees of Rs. 15,850/- and, therefore, no illegality has been committed by the learned trial Court by holding that the applicant-original plaintiff ought to have paid the court fees of Rs. 15,950/- on valuation of Rs. 6 lakhs of the disputed property in question.

5. In view of the above, there is no substance in the present Civil Revision Application, which deserves to be dismissed and is accordingly dismissed. Rule is discharged. Ad-interim relief granted earlier, if any, stands vacated forthwith. No cost.

(M.R. SHAH, J.)