

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 6329 of 2008****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE G.R.UDHWANI**

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| 1 | Whether Reporters of Local Papers may be allowed to see the judgment ? | NO |
| 2 | To be referred to the Reporter or not ? | NO |
| 3 | Whether their Lordships wish to see the fair copy of the judgment ? | NO |
| 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 ? | NO |
| 5 | Whether it is to be circulated to the civil judge ? | NO |
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JAYANTI MADHAVJI GESOTA....Petitioner(s)

Versus

PARADISE INDUSTRIAL CORPO. & 9....Respondent(s)

Appearance:

MR KISHOR M PAUL, ADVOCATE for the Petitioner(s) No. 1

RULE SERVED BY DS for the Respondent(s) No. 1 - 1.1 , 3 - 10

CORAM: HONOURABLE MR.JUSTICE G.R.UDHWANI**Date : 28/06/2013****ORAL JUDGMENT**

1. Aggrieved by the order dated 7.2.2007 passed below Exh.106 in Special Civil Suit No.153 of 1991 passed by the learned Civil Judge (S.D.), Rajkot rejecting the application whereby the objection was raised by the petitioner as to deposition of power of attorney holder of the plaintiff on various grounds.

2. Having considered the arguments advanced by the learned counsel for the petitioner, it appears that the trial court found that the issues raised by the petitioner were not possible to be attended at the interlocutory stage and all those issues can be raised at the time of final hearing of the suit. This Court does not find any infirmity in the said reasonings given by the trial Judge. However, reliance was placed on **Janki Vashdeo Bhojwani and another vs. Indusind Bank Ltd. and others [(2005) 2 SCC 217]** and **Ajay Kiritkant Ghelani and others vs. Mathureshnagar Co-operative Housing Society Ltd. and another [2008 (1) GLR 215]** wherein the Hon'ble Supreme Court and this High Court has laid down a proposition of law that the power of attorney can only depose what is within his personal knowledge and cannot depose what is in the knowledge of the executor of the power of attorney deed/instrument. The above proposition of law can always be invoked when the suit is being finally heard. Deciding such issue at an interlocutory stage will only result into delaying the proceedings at such stages, and in view of the amended provisions of the Code of Civil Procedure, the Court under Article 227

of the Constitution of India would be slow to interfere in such interlocutory orders. It goes without saying that since the issue raised by the petitioner in the application Exh.106 can always be attended to at the time of final hearing of the suit, it will always be open for the petitioner to raise such issue and the trial court will take into consideration such issue at the time of final hearing. It also goes without saying that the parties to the suit will have all the liberty to raise all sort of issues as may be advised to them in accordance with law before the trial court.

3. It is noticed that the suit was filed way back in the year 1991, the proceedings were stayed by this High Court. Considering the fact that the suit is now ripe for hearing and being old suit, the trial court shall hear and decide the same, as expeditiously as possible, preferably by 31st December, 2013.

4. In above view of the matter, there being no substance in the petition, it is required to be dismissed. The petition is therefore dismissed. Rule is discharged with no order as to costs.

(G.R.UDHWANI, J.)

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