# Associated Tubewells Ltd. vs R.B. Gujarmal Modi on 23 May, 1957

## Equivalent citations: AIR1957SC742, (1958)0PLR9, AIR 1957 SUPREME COURT 742, 1957 SCJ 725, 1957 (1) MADLJ(CRI) 688, 60 PUN LR 9, ILR 1957 PUNJ 1881

JUDGMENT

Jagannadhadas, J.

1. We have heard the matter again at some length because the review application has been made to us on the ground that the Advocate was not fully heard and was denied adequate opportunity for saying what he wanted to say. After rehearing on the points on which the Advocate thought he was not fully heard, we ace not persuaded that we ought to have granted leave in this matter.

2. It is not the practice of this Court to give reasons for the dismissal of an application for special leave and we do not want to depart from that practice and give our reasons here why we originally refused leave and why we still think that there are no grounds for our modifying that order.

3. This application is accordingly dismissed with costs.

4. We cannot, however, part from this matter without placing on record our very strong disapproval of the course that the Advocate--a very senior counsel of this Court--has adopted in making this application. In the review application he has referred in detail as to what, according to him, happened in Court on the prior (occasion and what each Judge said in the course of the arguments. The review application sets out at length what the presiding Judge said and expressed in the course of the arguments and what his views were and what the other Judges of the Bench said and expressed and what the view of each was. These statements are followed by a confident assertion how and why the application was dismissed.

5. We cannot help saying that this was wholly improper. We are not saying that a Judge is in fallible. It is possible that a view which ultimately appeals to a Judge in coming to his conclusion is erroneous. That by itself can afford no ground for review. But what is improper is to assume and assert as to what a Judge's view is in making a particular order when the order pronounced does not set it out and to make references to what Judges say in course of arguments and make that a ground for rehearing.

6. Judges of this Court cannot be dragged into a controversy as to whether the statements ascribed to them are correct, or express correctly and fully what they had in view. What may have been said or expressed may often enough be in the course of tentative loud-thinking and may reflect only very

partially what the Judges had in view. What ultimately weighs with the Judges in pronouncing the order, when doing so without giving reasons, may often be not reflected in what is tentatively and openly ex pressed.

Judges cannot be drawn into controversy over such matters. It is not consistent with the dignity of the Court and the decorum of the Bar that any course should be permitted which may lead to controversy as to what a Judge stated in Court and what view he held. Such matters are to be determined only by what is stated in the record of the Court. That which is not so recorded cannot be allowed to be relied upon giving scope to controversy. To permit the atmosphere of the Court to be vitiated by such controversy would be detrimental to the very foundation of the administration of justice.

7. It is regrettable that the learned Advocate in spite of a hint from one of the members of the Court at the early stages of this hearing did not see the impropriety of the course he has adopted and has persisted in it before us.

8. We have permitted ourselves to make the above remarks since we felt that we would be failing in our duty otherwise.

9. We think it right also to say that what we have said above has not in any manner weighed with us in our consideration of this review application, which we have dismissed as above stated.