

Gujarat High Court

Manojbhai vs Kantubhai on 3 September, 2010

Author: Dn Patel,&Nbsp

Gujarat High Court Case Information System

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A0/76/2008 2/ 2 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL

FROM ORDER No. 76 of 2008

With

CIVIL
APPLICATION No. 2701 of 2008

In
APPEAL FROM ORDER No. 76 of 2008

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MANOJBHAI
GOVINDBHAI PATEL - Appellant(s)

Versus

KANTUBHAI
RANCHHODBHAI PATEL & 4 - Respondent(s)

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Appearance :
MR
PR THAKKAR for Appellant(s) : 1,
MR RR VAKIL
for Respondent(s) : 1,
None for Respondent(s) : 2 -
5.

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CORAM

:

HONOURABLE

MR.JUSTICE DN PATEL

Date

: 04/03/2008

ORAL

ORDER

1. Present Appeal From Order has been preferred against the ex parte ad interim relief passed by the 3rd Additional Senior Civil Judge, Navsari dated 25.2.2008 below Exhibit 5 in Special Civil Suit No.10 of 2008.

2. Having heard the learned counsel appearing for both the parties and looking to the facts and circumstances of the case, it prima facie appears that the learned counsel appearing for the respondent is unable to point out whether there is a compliance of Order 39 Rule 3 of Code of Civil Procedure or not. Thrice this Court asked the learned counsel for the respondent about the compliance of the provisions referred to in Order 39 Rule 3 of Code of Civil Procedure. However, he has no instruction for this compliance.

3. In view of the above facts and also looking to the averments made by the learned counsel for the appellant on oath that though they have filed caveat no copy of Exhibit 1 and Exhibit 5 in Special Civil Suit No.10 of 2008 has been served. The affidavit of the present appellant (original defendant) before the trial Court is also annexed with the memo of present appeal (Annexure L).

4. In view of this fact, the order passed by 3rd Additional Senior Civil Judge, Navsari dated 25.2.2008 below Exhibit 5 in Special Civil Suit No.10 of 2008, is hereby suspended.

5. It is stated by the learned counsel for the parties that even otherwise further hearing of Exhibit 5 application is fixed on 7.3.2008. Thus, the stay granted by the trial Court, shall not be made operative and enforceable at all. The trial Court will decide Exhibit 5 application without being influenced by the order passed by this Court. Hence, this Appeal From Order is disposed of. Civil Application is also disposed of.

(D.N.

PATEL, J.) ynvvas Top