

(2011) 03 GUJ CK 0109
In the Gujarat High Court

Case No : Special Civil Application No. 8046 of 1999 with Special Civil Application No. 5817 of 2004

Bhagwandas Maganlal Swaminarayan APPELLANT

Vs

Divyangpark Coop HSG. SOC Ltd. and Others RESPONDENT

Date of Decision : 17-03-2011

Acts Referred:

Citation : (2011) 03 GUJ CK 0109

Hon'ble Judges : S.R. Brahmbhatt, J

Bench : Single Bench

Advocate : Ravindra Shah, for the Appellant; Udayan P. Vyas, for Respondent 1 and Manisha Narsinghani, AGP for Respondents 3 and 5, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Brahmbhatt, J.—Learned advocate for the Petitioner in these petitions submitted that since long, there is no instructions from the Petitioner and in fact, he received telephonic instructions yesterday from the neighbour of the Petitioner that Petitioner is died and heirs are also not residing at the place where the Petitioner was residing. In such a situation, the Court may pass appropriate order. In such a situation, he is requesting for adjourning the matter.

2. The court is of the view that matters are that of the year 1999 and 2004. The Petitioner is same in both the matters. When the counsel has informed that the Petitioner has died and no further statement is made, the request for adjourning the matter cannot be granted. The counsel at the same time is also submitting that if the Petitioner is died, than the matter cannot be proceeded with. In such a situation, I am of the view that the best course of action is to dispose of the matters for want of instructions, as had the Petitioner been really interested in prosecuting the matter, than, there would have been instructions to the counsel and counsel in terms would have placed on record the requisite information and in case if the Petitioner had died, than, if heirs and legal representatives of Petitioner are really interested in prosecuting the matter, than there would have

been some instructions to the counsel but as per counsel for the Petitioner, no instructions are furnished. The matters are of the year 1999 and 2004 and when the matters are adjourned on 16.03.2011, it is informed to learned advocate for the parties that no further time shall be granted in this matter and matters shall be disposed of on 17.03.2011.

3. In view of this, the court is of the view that matters are required to be dismissed for want of instructions. Orders accordingly. Liberty is granted to the Petitioner in case of difficulty. Rule is discharged in both the matter. No costs.