
(2011) 10 GUJ CK 0009

In the Gujarat High Court

Case No : Special Civil Application No. 12077 of 2011

Gujarat State Cooperative Marketing Federation Ltd.

APPELLANT

Vs

Panchmahal District Cooperative Bank Ltd.

RESPONDENT

Date of Decision : 03-10-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2011) 10 GUJ CK 0009

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Dipen A. Desai, for the Appellant; Sunil S. Joshi, for the Respondent

Final Decision : Allowed

Judgement

M.R. Shah, J.—Rule. Shri Joshi, learned advocate waives service of notice of Rule on behalf of Respondent. In the facts and circumstances of the case and with the consent of the learned advocates for the respective parties, present Special Civil Application is taken up for final hearing today.

2. By way of this petition under Articles 226 & 227 of the Constitution of India, the Petitioner-original Defendant has prayed for an appropriate writ, direction and order quashing and setting aside the order passed by the learned Board of Nominees, Ahmedabad dated 15.5.2007 passed below Exh.6 passed in Lavad Suit No. 539 of 2006 confirmed by the Gujarat State Cooperative Tribunal passed in Revision Application No. 94 of 2007.

3. Respondent herein had instituted Lavad Suit No. 539 of 2006 before the learned Board of Nominees, Ahmedabad for setting aside Resolution dated 30.8.2005 removing the Respondent bank from the membership of the Petitioner federation. In the said suit, the Petitioner submitted the application Exh. 6 and prayed for interim injunction. The learned Board of Nominees initially granted the order of status quo, which came to be subsequently modified by the impugned order dated 15.5.207, by which, the learned Board of Nominees by way of

interim order directed the Petitioner to accept of Rs. 2500/- being additional amount of share to qualified become/ remain as member of the Petitioner Sangh and further directed the Petitioner to issue share certificate to the Respondent. Being aggrieved and dissatisfied with the order passed by the learned Board of Nominees passed below Exh, 6 in Lavad Suit No. 539 of 2006, the Petitioner preferred revision application before the Gujarat State Cooperative Tribunal. That the learned Tribunal during the pendency of the revision application granted the order of status quo, however subsequently by impugned judgment and order the Tribunal has dismissed the said revision application confirming the order passed by the learned Board of Nominees below Exh.6 passed in Lavad Suit No. 539 of 2006. Being aggrieved and dissatisfied with the aforesaid orders passed by the learned Board of Nominees confirmed by the learned Cooperative Tribunal, the Petitioner-original Defendant has preferred the present Special Civil Application under Articles 226 & 227 of the Constitution of India.

4. After making some submissions and considering the fact that the main suit is yet to be decided and disposed of by the learned Board of Nominees, there is a broad consensus between the learned advocates for the respective parties that let the impugned order passed by the learned Board of Nominees passed below Exh.6 as well as the order passed by the Gujarat State Cooperative Tribunal passed in revision application be quashed and set aside and learned Board of Nominees be directed to decide and dispose of the said suit in accordance with law and within stipulated time and till then parties be directed to maintain status quo as on today. Shri Joshi, learned advocate for the Respondent has submitted that as such no further evidence is required to be led as the suit is by and large based on documentary evidences and therefore, it is requested to make suitable observations and/ or direct the learned Board of Nominees to decide and dispose of the aforesaid Lavad Suit No. 539 of 2006 at the earliest and within stipulated time. Learned advocates for the respective parties have also requested to direct the learned Board of Nominees to decide and dispose of the suit in accordance with law and on merits and on the basis of the evidence led and without in any being influenced by the present order. Learned advocates for the respective parties do not invite any further reasoned order while quashing and setting aside the impugned order passed by the learned Board of Nominees confirmed by the Tribunal. Hence, this Court is not assigned any further reasoned order while quashing and setting aside the impugned order passed by the learned Board of Nominees confirmed by the learned Cooperative Tribunal and directing the parties to maintain status quo as on today.

5. In view of the above broad consensus between the learned advocates for the respective parties recorded hereinabove and more particularly, considering the fact that main suit is yet to be decided and disposed of by the learned Board of Nominees, present Special Civil Application is allowed and impugned order passed by the learned Board of Nominees passed below Exh.6 passed in Lavad Suit No. 539 of 2006 as well as order passed by the Tribunal passed in Revision Application No. 94 of 2007 are hereby quashed and set aside and the learned

Board of Nominees, Ahmedabad is hereby directed to finally decide and dispose of the main suit at the earliest but not later than 31.1.2012 and in the meantime parties are directed to maintain status as on today. It goes without saying that learned Board of Nominees to decide and dispose of the aforesaid suit in accordance with and on merits and on the basis of the evidence led and without in any way being influenced by the present order as this Court has not expressed anything on merits in favour of either parties with respect to controversy in question. Rule is made absolute to the aforesaid extent. Direct service is permitted.