

(2019) 08 GUJ CK 0049

In the Gujarat High Court

Case No : R/Letters Patent Appeal No. 1232, 1233, 1234, 1236 Of 2019, Civil Application (For Interim Relief) No. 1 Of 2019 In Special Civil Application No. 7189 Of 2015, 13405 Of 2017

Harkhuben

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 06-08-2019

Acts Referred:

Citation : (2019) 08 GUJ CK 0049

Hon'ble Judges : S.R. Brahmbhatt, J;A.P. Thaker, J

Bench : Division Bench

Advocate : Mehul Sureshbhai Shah, Hitesh N. Achary, Utkarsh Sharma, Chinmay M. Gandhi, M.B. Gandhi, R.R. Marshal, Jay M. Thakkar

Final Decision : Disposed Of

Judgement

S.R. Brahmbhatt, J

1. Shri Mehul Shah, learned Senior Counsel for Shri Hitesh Acharya, learned advocate for the appellants submits that so far as two matters are concerned being Letters Patent Appeal No. 1232 of 2019 and Letters Patent Appeal No. 1233 of 2019, the review petition is required to be filed on account of certain findings, which according to him not based upon the record. So far as other two appeals being Letters Patent Appeal No. 1234 of 2019 and Letters Patent Appeal No. 1236 of 2019 are concerned, they are not required to be subject matter of review as the judgment is common and as contended by the learned counsel, he seeks permission to withdraw all the four appeals with a liberty to file afresh even though in the subsequent two appeals no review is required to be preferred and as there is a common judgment, in order to maintain consistency, these appeals are sought to be withdrawn, therefore, liberty be reserved specifically that without any reservation or impediment, the outcome of review be brought on record by subsequent appeal in case if they are to be filed and at that time, no technical plea of res-judicata be applicable.

2. Shri R.R. Marshall, learned Senior Counsel for Shri Jay M. Thakkar, learned advocate for the respondent nos. 7 & 7.2, submitted that the judgment is common and the submissions on the part of the respondents are common. Hence, even two other appeals i.e. Letters Patent Appeal No. 1234 of 2019 and Letters Patent Appeal No. 1236 of 2019 also cannot be permitted to be kept alive or maintain and therefore, all the four appeals, if withdrawn, they have no objection for request of withdrawal.

3. Orders accordingly. Permission as sought for is granted. The appeals are disposed of as withdrawn. The appellants in all the four appeals will be at absolute liberty to bring in fresh appeal for the same cause of action and the factum of this withdrawal shall not be an impediment in maintaining those appeals. The Court has not gone into the merits.

4. In view of the order passed in the main matters, no orders in the connected Civil Applications and the same are disposed of.