

(2021) 09 GUJ CK 0029

In the Gujarat High Court

Case No : R/Misc. Civil Application No. 643 Of 2020 In R/Special Civil Application No. 5321 Of 2019

Khatana Bharatbhai Govindbhai

APPELLANT

Vs

Rajiv Kumar Gupta

RESPONDENT

Date of Decision : 13-09-2021

Acts Referred:

Citation : (2021) 09 GUJ CK 0029

Hon'ble Judges : A.J.Desai, J; Nirzar S. Desai, J

Bench : Division Bench

Advocate : Shalin Mehta, Shikha D Pancha, VC Shah

Judgement

A.J.Desai, J

1 This application under the provisions of the Contempt of Courts Act, 1971 is filed for non-compliance of the oral judgment dated 29.11.2019 passed in Special Civil Application No.5321 of 2019.

2 The respondent - State has challenged the judgment dated 29.11.2019 passed by the learned Single Judge in Special Civil Application No.5321 of 2019 by filing Letters Patent Appeal No.329 of 2021, which came to be dismissed by co-ordinate Bench vide order dated 03.03.2021.

3 On 06.04.2021 following order was passed by co-ordinate Bench:

"1. Learned Assistant Government Pleader Ms. Vrunda Shah, requests for time upto 19.04.2021 to seek instructions from the office of opponent No.1. She also is aware that the direction from the learned Single Judge, which has been confirmed by the appellate Bench is for considering the case of the applicant herein.

2. Matter to be posted on 19.04.2021. Copy of this order be supplied to the learned Assistant Government Pleader."

4 Thereafter, on several occasions, time was sought by learned Assistant Government Pleader for compliance of the judgment, which was accepted by the Court and ultimately on 02.08.2021 the following order was passed by this Court:

"Learned AGP has forwarded a communication dated 01.06/07.2021 issued by the Additional Chief Secretary, Forests with regard to filing of Special Leave Petition before Hon'ble The Supreme Court challenging the decision dated 29.11.2019 of the learned Single Judge in Special Civil Application No.5321/2019, confirmed by the Division Bench in Letters Patent Appeal No.329/2021 vide order dated 03.03.2021. Though the order which is subject matter of present application has been confirmed by the Division Bench way back on 03.03.2021, there is no compliance till date. However, in view of the submission made by the learned AGP, following order is passed.

1 Respondents may comply with the order dated 29.11.2019 passed by the learned Single Judge in Special Civil Application No.5321/2019 and confirmed by the Division Bench in Letters Patent Appeal No.329/2021 vide order dated 03.03.2021 on or before 06.09.2021.

2 In absence of any order granted by Hon'ble The Supreme Court in present proceedings, if the order dated 29.11.2019 passed by the learned Single Judge in Special Civil Application No.5321/2019 is not complied with on or before 06.09.2021, a serious view would be taken against the erring officials.

Stand over to 13.09.2021."

5 In spite of the above, neither the judgment dated 29.11.2019 passed by the learned Single Judge nor the order dated 02.08.2021 has been complied with by the respondents.

6 Today, learned Assistant Government Pleader has once again made a request for adjournment on the similar ground that the file is pending with the counsel for the State of Gujarat at Delhi. The said request was opposed by Mr. Shalin Mehta, learned Senior Advocate appearing for the applicant.

7 We are not inclined to accept the request made by learned Assistant Government Pleader at the instance of respondent officer in view of the fact that the the respondents are not taking the orders in true spirit.

8 In view of the above, Mr. Arunkumar M. Solanki, the Additional Secretary, Forest Department and other respondents are hereby directed to remain personally present before the Court at 11;00 a.m. on 20.09.2021 and in absence of compliance of the judgment, charge shall be framed against them under the provisions of the Contempt of Court Act, 1971.

9 Copy of this order be supplied to learned Assistant Government Pleader for further action.