
(2000) 01 GUJ CK 0016

In the Gujarat High Court

Case No : Civil Revision Application No. 813 of 1996

Vasantkumar Mahadevprasad Bhatt

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 17-01-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2, 115

Citation : (2000) 01 GUJ CK 0016

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : D.T. Shah, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Keshote, J.—Leaving apart the question that this court has very very limited powers to interfere u/s 115 of the CPC with the order passed by the trial court under Order 39, Rules 1 and 2 and that of by the trial first appellate court in the appeal filed against that order under Rule 43, Rules 1 and 2, otherwise also, I do not find any merit in this revision application. Both the petitioners have transferred from Patdi. On their transfer, they have no right whatsoever to retain the quarters. Instead of waiting for any action to be taken by the respondents against them being the Government employees it is their legal duty and obligation voluntarily to vacate the quarters. After transfer retention of the quarter by both the petitioners is wholly unauthorised and the authorities have rightly demanded the rent at market rate from them to which no exception can be made. If, the Government officers/employees retain the Government quarters after their transfer or retirement without there being any lawful authorisation, it is infact a grave and serious misconduct and for which disciplinary action should have been taken. It is being seen time and again that in this State, higher officers are very very lenient to their subordinate officers and employees. I fail to see any justification in the action of the higher officers to proceed for taking possession of the quarter under the provisions of the Gujarat Public Premises

(Eviction of Unauthorised Occupants) Act against those faulting officers/employees. This tendency to continue to occupy the Government Quarter or bungalow by the officers/employees even after their retirement or transfer is increasing. To certain extent courts also encourages this tendency of officers/employees by grant of liberally temporary injunction. In this case it is brought to the notice of the court that till day these petitioners are continuing in possession of the quarters under the interim relief granted by the court below.

2. Be that as it may be. It is difficult to appreciate what irreparable injury will be caused to these petitioners in case interim relief as prayed for is not granted by the courts below. Ultimately if they succeed in the suit they will get back the money paid by them towards rent under demand order. It is a simple money matter.

3. The order passed by the first appellate court is just and reasonable order. There is no perversity therein. This revision application is wholly misconceived and the same is dismissed. Nobody has put appearance for the respondents, no order as to costs. Rule discharged. Filing of the suit by these two petitioners will not come in the way of the respondents to take appropriate disciplinary action against these two employees for this misconduct.