

Gujarat High Court

Rajkot Cancer Society vs Municipal Corporation, Rajkot on 1 July, 1987

Equivalent citations: AIR 1988 Guj 63, (1987) 2 GLR 981

Bench: A Qureshi

ORDER

1. Rule Mr. B. P. Tanna appears and waives service of Rule for the respondent.
2. Mr. R M. Raval, learned counsel for 'the petitioner, has challenged the impugned order of the learned Assistant Judge, Rajkot, on the ground that the learned Judge has directed that the matter which was to be heard by the 2nd Joint Civil Judge (J.D.) Rajkot, be transferred to the Court of the 1st Joint Civil Judge (J.D.) Rajkot. Mr. Raval has urged that the learned Judge has not set out any reason why the matter has been transferred from one Court to another. According to him, there is no reason to believe that the Court before which the matter is pending, would not be able to dispose it of expeditiously.
3. Mr. B. P. Tanna has very fairly stated that there is no express reason to out by the learned Judge for ordering transfer of the case from one Court to another. But according to him, a possible reason could be that in the impugned order the learned Assistant Judge has stated that the learned trial Judge, 2nd Joint Civil Judge (J. D.) had issued an ex parte mandatory injunction earlier in this matter. According to him, another possible ground could be that earlier a suit was filed by the present plaintiff but was subsequently withdrawn unconditionally and hence according to him, the learned Assistant Judge may have felt that it would be better that another Court may apply its mind afresh.
4. It must be stated that neither of the possible grounds urged by Mr. Tanna is convincing. There is absolutely no reason whatsoever for transferring the case from one Court to another. It must be borne in mind that transfer of a case from one Court to another is a pretty serious matter because it casts indirectly doubt on the integrity or competence of the Judge from whom the matter is transferred. This should not be done without a proper and sufficient cause. If there are good and sufficient reasons for transferring a case from one Court to another, they must be clearly set out. Mere presumptions or possible apprehension could not and should not be the basis of transferring a case from one Court to another. Only in very special circumstances, it may become necessary to transfer a case from one Court to another. Such a power of transfer of a case from one Court to another has to exercised with due care and caution bearing in mind that there should be no unnecessary, improper or unjustifiable stigma or slur on the Court from which the case is transferred Hence, the submission of Mr. Raval deserves to be upheld. The order of the learned Assistant Judge with regard to transferring the case from the Court of 2nd Joint Civil Judge (J.D.) Rajkot, to the Court of 1st Joint Civil Judge (J.D) Rajkot, is set aside. The matter will be heard by the 2nd Joint Civil Judge (J.D.) Rajkot, before whom the matter was pending before transferring. Rule made absolute. In the circumstances of the case there shall be no order as to costs.
5. The learned counsel for the parties have urged that the matter is required to be disposed of expeditiously. Considering the importance of the matter, the trial Court is directed to hear and dispose of the application for interim relief Ex. 5 as expeditiously as possible not later than 15-7-1987. Writ to issue immediately.
6. Rule made absolute.