

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 628 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 17272 of 2024
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/LETTERS PATENT APPEAL NO. 628 of 2025

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STATE OF GUJARAT

Versus

HANSABEN GOPALBHAI DHOLAKIA WD/O GOPALBHAI CHAKUBHAI
 DHOLAKIA

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Appearance:

MS SHRUTI R. DHURVE, AGP for the Appellant(s) No. 1

MR JIGNESH D. LAMBA, ADVOCATE for

MR YOGEN PANDYA, ADVOCATE for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**
 and
HONOURABLE MS. JUSTICE GITA GOPI

Date : 01/05/2025

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. Learned advocates appearing for respective parties, have submitted that in an identical issue in the matter being Letters Patent Appeal No.102 of 2025, this Court has passed the order dated 17.04.2025. It is further submitted that the present appeal may also be disposed of in terms of the said order. The order dated 17.04.2025 passed in Letters Patent Appeal No.102 of 2025 reads as under : -

*"1. **Admit.** Learned AGP waives service of notice of admission for and on behalf of the respondent-State.*

2.The present appeal is directed against the order dated 19.12.2024 passed by the learned Single Judge in the captioned writ petition.

3. As we have already recorded in the order dated 10.01.2025, while issuing notice that the learned Single Judge vide very cryptic order has rejected the writ petition filed by the appellant-State.

4. Learned advocate for the respondent has submitted that some vital facts are suppressed by the State Government and only after execution application is filed, the present appeal has been filed.

5. Be that as it may. The learned Single Judge while rejecting the captioned writ petition has passed a very cryptic order dated 19.12.2024, which reads as under:

“Learned AGP Mr. Shivam Dixit is unable to produce the Exh.27 i.e. the order passed by the Authority, regularizing the service of the workman.

In view of the same, no case is made out. Hence, these petitions are rejected.”

6. While issuing notice in the order dated 10.01.2025, we had observed thus:

1. The appeal is directed against a very cryptic order dated 19.12.2024 passed by the learned Single Judge in the captioned writ petition. Since extreme urgency was pleaded by the learned AGP that they are facing the execution proceedings initiated in view of the order dated 27.12.2021 passed in Recovery Application 33-C-2 No.168 of 2019 by the Labour Court No.2, Rajkot and there was attachment of the properties, which is already done and they are now facing an auction, which is scheduled to be held on 13.01.2025 i.e. on Monday, the present appeal was ordered to be listed today.

2. At this stage, we are only concerned with the order passed by the learned Single Judge, which is impugned in the appeal. The learned Single Judge has rejected the captioned writ petition filed by the State Government assailing the award dated

27.12.2021 passed by the Labour Court in Recovery Application 33-C-2 No.168 of 2019 granting lump-sum compensation of Rs.8,00,000/- to the respondent No.1 on the death of her husband with simple interest at the rate of 6%.

3. The order passed by the learned Single Judge is as under:

“Learned AGP Mr.Shivam Dixit is unable to produce the Exh.27 i.e. the order passed by the Authority, regularizing the service of the workman.

In view of the same, no case in made out. Hence, these petitions are rejected.”

4. A categorical averment was made in the writ petition filed by the State Government that similar issue is pending for final adjudication before the Apex Court being Special Leave Petition (Civil) Diary No.10858 of 2024. The reliance has been placed on the order dated 14.08.2024, which was annexed along with the writ petition. By the said order, the Apex Court has stayed the judgement and order passed by this Court.

5. We are of the opinion that the learned Single Judge has erred in rejecting the writ petition by a cryptic order by recording that the learned AGP was unable to produce Exh.27 on record i.e. the order passed by the authority regularizing the service of the workman. In the considered opinion of this Court, the learned Single Judge ought to have recorded the valid reasons for rejecting the writ petition and only because there was a failure of producing the order passed by the authority regularizing the service of the workman, the writ petition could not have been rejected. Such order could have been called from the respondent-workman also. The learned Single Judge, ought to have examined the fact about pendency of similar issue before the Apex Court in which the stay has been granted on the appeal filed by the State

Government against the order passed by this Court. The order dated 19.12.2024 passed by the learned Single Judge is bereft of the facts as well as any finding. Hence, we are left with no other option but to stay the order dated 19.12.2024 passed by the learned Single Judge in exceptional circumstances.

6. Issue Notice to the respondent(s), making it returnable on 30.01.2025. Till the next date of hearing, an auction, which is scheduled in view of the order dated 03.11.2022 passed by the Labour Court in Recovery Application No.11 of 2022, is hereby stayed. It is further clarified that no auction of the concerned properties, which are subject matter of the recovery application, shall be held till the next date of hearing.

Direct service today is permitted."

7. Thus, in view of the order dated 10.01.2025 and in light of the fact that the learned Single Judge has neither dealt with the facts nor any provision of law and in a cryptic manner, rejected the writ petition, we have no option but to set aside the impugned order.

8. The present appeal is allowed. The impugned order dated 19.12.2024 passed by the learned Single Judge in the captioned writ petition is hereby set aside. Registry is directed to list the captioned writ petition before the Bench assigned such roster. However, it is clarified that the rights and contentions of the respective parties are left open. It is directed that till the further orders are passed by the learned Single Judge in the captioned writ petition, the interim order, as narrated hereinabove dated 10.01.2025 staying the auction, is hereby continued.

9. As a sequel, the connected civil application also stands disposed of."

2. In view of the above, the present appeal stands disposed of in terms of the aforesaid quoted order.

3. The connected civil application also stands disposed of accordingly.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(GITA GOPI,J)

MAHESH/48

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MAHESH OMPRAKASH BHATI(HC01086), PRIVATE SECRETARY, at High Court of Gujarat on 01/05/2025 17:57:16