

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR FIXING DATE OF HEARING) NO. 1 of 2020
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 2 of 2020
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 2 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 3 of 2020
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 3 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 4 of 2020
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
MISC. CIVIL APPLICATION (FOR REVIEW) NO. 4 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR RECALL) NO. 5 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 6 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 7 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
MISC. CIVIL APPLICATION (FOR REVIEW) NO. 8 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR RECALL) NO. 9 of 2021

In R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 10 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 11 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 12 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 13 of 2021
In
R/WRIT PETITION (PIL) NO. 63 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 5829 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 7399 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2019
In
R/SPECIAL CIVIL APPLICATION NO. 7399 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 2 of 2019
In
R/SPECIAL CIVIL APPLICATION NO. 7399 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 7404 of 2019
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2019
In
R/SPECIAL CIVIL APPLICATION NO. 7404 of 2019
With
CIVIL APPLICATION (FOR DIRECTION) NO. 2 of 2019
In
R/SPECIAL CIVIL APPLICATION NO. 7404 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 8470 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 13280 of 2021
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 2 of 2021
In
R/SPECIAL CIVIL APPLICATION NO. 13280 of 2021

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VISHWAS SUDHANSHU BHAMBURKAR
Versus

UNION OF INDIA

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Appearance:

PARTY IN PERSON(5000) for the Applicant(s) No. 1
 MR DEVANG VYAS(2794) for the Opponent(s) No. 1
 MR DHAVAL G NANAVATI(2578) for the Opponent(s) No. 3
 MR. BHADRISH S RAJU(6676) for the Opponent(s) No. 2

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***CORAM:HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR
 and
 HONOURABLE MR. JUSTICE ASHUTOSH J. SHASTRI***

Date : 05/01/2022

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR)

(Orders on Leave Note dated 03.01.2022)

1. A leave note has been circulated by Mr. Vishwas Subdhanshu Bhamburkar, who is the petitioner in Writ Petition (PIL) No. 63 63 of 2019 appearing in person seeking leave for non appearance for today, on the ground that his widowed mother aged about 72 years is indisposed and his presence is required to take care of her.

2. Rule 132 of the Gujarat High Court Rules, 1993 enable the learned advocates to seek leave of absence for the day on the ground of ill health vide sub-rule (1). Sub-rule (2) enable the learned Advocate to seek leave where the period of absence is exceeding one day by reason of illness or other sufficient cause, by sending intimation in writing to the Registrar General or through online application for leave being granted and the Administrative Judge is empowered to consider the said application either by granting it or refusing it. Rule 132 reads thus :-

“Rule 132 : Hearing to be stayed for non-attendance of

advocate owing to illness or other causes.- When an Advocate is prevented from attending the Court on any day by reason of illness, he shall, for the purpose, send an intimation, either in writing to the Registrar General or through online application system, available on website of the High Court, before 10:30 a.m., on that day only, for being processed, approval and circulation before the Honourable Court. The hearing of the case in which such advocate is engaged may be adjourned for the day provided that such advocate is the only advocate representing the party. This sub-rule shall apply only where intimation of illness is filed only for one day. If an advocate is prevented - by reason of illness from attending the Court for more than one day, he may file a note praying for leave, of absence as provided in sub-rule (ii).

(ii) When an advocate is prevented from attending the Court for a period exceeding one day by reason of illness or other sufficient cause, he shall, for the purpose, send an intimation, either in writing to the Registrar General or through online application system, available on the website of the High Court, before 1.30 p.m., only, 24 hours (one working day) in advance, for being processed. The Administrative Judge may, grant leave for such period not exceeding one week as he may deem proper or may refuse such leave. The cases in which such advocate is the only advocate representing the party shall stand adjourned during the period of leave. Such cases shall however, retain their place on the Daily Board with the necessary note as to the date on which such cases are adjourned.

Nothing in this sub-rule shall apply to Criminal Cases, Special Civil Applications and matters specially fixed for hearing or expedited by the order of the Court and matters on daily Board.

Notes

Rule 132 - Practice of filing leave notes - The leave notes are notified - Even if notified, the same

is not attracted in the four types of proceedings mentioned in the note to the leave note - Merely because no reply affidavit has been filed, it does not follow that the Special Civil Application cannot be disposed of by the Court - Civil Applications must be tagged with the main Special Civil Applications in which they are filed - Practice to the contrary criticised.

Patel Rajeshkumar Mathurbhai & Ors. v. State of Gujarat
1996 (2) GLR 147

Adjournments - Practice and Procedure -
Adjournment of cases - On ***illness slip of counsel*** -
Is a Noble tradition of Allahabad High Court - Need
not be abolished on account of isolated cases of
misuse.

*Practice and procedure - Adjournment - Writ
petition - Disposal of in absence of counsel -
Although counsel had sent illness slip - And was up
to day prior to hearing of petition granted leave by
Chief Justice on account of illness - Not proper -
Dismissal of petition liable to be set aside.*

Rais Ahmad v. State of U.P. and others
AIR 1999 SC 3080."

3. A plain reading of the above Rule does not enable or permit a party appearing in person to seek for leave by filing leave note or sick note. Hence, the leave note dated 03.01.2022 submitted by the petitioner - Mr. Vishwas Bhamburkar stands rejected. Registry is directed to issue a Circular in this regard. However, in the background of extant Circular of this Court dated 03.01.2022, prohibiting the litigant public from entering the Court premises, this matter is not taken up today and it is ordered to be listed on 19.01.2022.

Re-list the matters on **19.01.2022.**

The interim order granted earlier stands extended till next date of hearing.

(ARAVIND KUMAR,CJ)

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(ASHUTOSH J. SHASTRI, J)