

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 357 of 2016

In R/SPECIAL CIVIL APPLICATION NO. 15249 of 2015

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NAVSARJAN - THRO ITS REGIONAL PROGRAMME DIRECTOR SHRI
KANTIBHAI UKABHAI PARMAR

Versus

VEGDA NATUBHAI MOTIBHAI & 1 other(s)

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Appearance:

ADVOCATE NOTICE UNSERVED for the Appellant(s) No. 1
MS SHILPA R SHAH(796) for the Appellant(s) No. 1
NOTICE SERVED BY DS for the Appellant(s) No. 1
MR RAJESH P MANKAD(2637) for the Respondent(s) No. 1
RULE SERVED for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE N.V.ANJARIA

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 30/01/2024

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)

Orders passed from time to time in the proceedings of this Letters Patent Appeal, indicate that appellant has failed to appear through learned advocate, whose presence was always awaited in vain.

2. Not only that, the following order was also required to be passed on 06.12.2023,

"Following order was passed in this appeal on 18.9.2023:

"When the Appeal came up for consideration,

learned advocate Mr. Rajesh Shukla for respondent No.1 stated that on the previous occasion, learned advocate appeared and sought time stating that he would be replacing the learned advocate who is presently appearing on behalf of the appellant trust.

2. Today, nobody appears on behalf of the appellant trust. No mention is made. No request has been forthcoming.

3. The appeal is of the year 2016. The Labour Court has directed reinstatement of the respondent workman, which is confirmed by learned single Judge. However, in view of the pendency of the present appeal, where no stay is granted against the reinstatement, the workman is still to be reinstated.

4. In view of the aforesaid cumulative circumstances, we deem it fit to issue fresh notice to the appellant employer, returnable on 16.10.2023.

5. It is observed that if the appellant fails to appear or to cause appearance on his behalf, the court may proceed to pass appropriate orders on merits."

2. Thereafter, by order dated 16.10.2023, Registry was directed to submit a report about service of notice which was required to be issued as per earlier order.

3. Today, when the appeal comes upon consideration, it accompanies into office note dated 17.10.2023, which, inter alia, mentions that Registry had issued Notice of Appearance to the appellant employer on 26.9.2023 and the same is received back duly served on 13.10.2023 in the evening.

4. Despite the above fact and service of notice to the appellant, none appears. As a last chance,

there shall be fresh Notice to the appellant returnable on 11.1.2024. Direct service is permitted.

5. It is observed that if notice of this Court is not accepted and the appellant fails to appear either in person or through an advocate, it shall be treated as disregard of the orders of the Court."

3. Despite the above order, when the appeal comes up for consideration, none appears for the appellant though served, nor learned advocate on record has chosen to appear.

4. As a last chance, there shall be fresh notice to the appellant, returnable on 05.03.2024 to the appellant, which shall be served through the Bailiff of the City Civil Court.

5. For the above purpose, the Registry of this Court shall forward notice to the Registrar of City Civil Court who shall take necessary steps. The bailiff shall file report regarding the service effected.

(N.V.ANJARIA, J)

(PRANAV TRIVEDI, J)

BIJOY B. PILLAI