

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS.6818-6819 OF 2023
(Arising out of S.L.P.(Civil) Nos.7755-7756 of 2023)

KRISHNA HITESHBHAI PATEL . . . APPELLANT(S)

VS.

NARENDRA JAGANNATH VARMA & ORS. . . RESPONDENT(S)

O R D E R

Leave granted.

Heard the learned senior counsel appearing for the appellant and the learned counsel appearing for the respondents.

The appellant has given an undertaking on oath. The paragraph Nos. 1 to 7 of the undertaking state thus:

"1.That, I am the sole proprietor of the Petitioner in the accompanying Special Leave Petition, I am well conversant with the facts and records of the case and therefore, competent to swear the present affidavit.

2.I state that I am swearing the present affidavit cum undertaking pursuant to the hearing of the captioned SLP before this Hon'ble Court on 09.10.2023.

3. That, I hereby undertake and affirm before this Hon'ble Court that I shall only enter into license agreements for the suit property, which is the subject matter of the captioned SLP, with proposed licensees who shall be permissive users without them creating any rights, title, or interest in the suit property.

4. That, I further undertake to include in all license agreements entered into by me as a licensor, the necessary particulars of the pending litigation by way of First Appeals No. 166 & 1138 of 2022. The said license agreements shall also mention that such agreements are subject to the final outcome of the pending litigation.

5. That, all license agreements shall be entered into only upon full disclosure of the pending appeal, and the proposed licensee shall acknowledge in writing their awareness of the ongoing litigation.

6. That, I undertake to obtain an undertaking from any proposed licensee of the suit property to the effect that the license shall remain subject to the final outcome of First Appeal No. 166 & 1138 of 2022 and shall not be transferred, assigned, or encumbered in any manner.

7. That, the present affidavit cum undertaking shall remain valid and binding until the final disposal of First Appeal No. 166 & 1138 of 2022."

The learned senior counsel appearing for the appellant states that while taking the undertakings in terms of clause 6 from the proposed licensee, a clause shall be incorporated that the licensee will not claim any right, title or interest in respect of the premises except a right to occupy only by way of a permissive user. The learned senior counsel appearing for the appellant, on instructions, states that the appellant has not yet acted upon what is provided in clauses (d) and

(e) of the paragraph 10 of the impugned order. Therefore, the appellant will have to give further undertaking that as and when licences/licence agreements are executed by the appellant, within a period of one week from the date of execution of the licences, he shall place on record of the High Court in the pending appeals, a copy of the document creating licence and undertaking of the licencees in terms of clause 6 of his own undertaking.

We, accordingly, modify clauses (d), (e) and (i) by deleting them. Modified clause (d) shall read as under:

"It will be open for the appellant to grant a licence to use the premises in the construction made by him on the suit property subject to compliance with undertaking dated 12th October, 2023 and subject to further undertaking by the appellant that while taking undertaking from the proposed licensee in terms of paragraph 6 of the undertaking dated 12th October, 2023, a clause shall be incorporated that the licensee will not claim any right, title or interest in the premises subject matter of licence and his user will be purely a permissive user.

We make it clear that all the licences granted by the appellant shall be subject to the final outcome of the First Appeal No.1138 of 2020.

We also make it clear that within one week from the date on which licences are executed by the appellant, copies of the licence documents along with undertakings as stated above of the licensee shall be placed on record of the pending First Appeal and copies thereof be supplied to the parties to the pending first Appeal.

We clarify that this arrangement will continue till the final disposal of the First Appeals."

Clauses (f), (g) and (h) of paragraph 10 of the impugned order shall be numbered as (e), (f) and (g).

The appeals are accordingly disposed of.

.....J.
(ABHAY S.OKA)

.....J.
(PANKAJ MITHAL)

NEW DELHI;
October 16, 2023.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 7755-7756/2023

(Arising out of interim order dated 20-12-2022 in CA No. 1/2022 in R/FA No.166/2022 with CA No. 1/2022 in R/FA No.1138/2022 passed by the High Court of Gujarat at Ahmedabad)

KRISHNA HITESHBAI PATEL

Petitioner(s)

VERSUS

NARENDRA JAGANNATH VARMA & ORS.

Respondent(s)

(IA No.76887/2023-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 16-10-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s)

Mr. Iqbal Syed, Sr. Adv.
Mr. Varinder Kumar Sharma, AOR
Ms. Deeksha Gaur, Adv.
Mr. Shantanu Sharma, Adv.
Mr. Prithu Parimal, Adv.
Mr. Aniq Kadri, Adv.
Mr. Dr. Ram Kishor Choudhary, Adv.
Mr. Avinash Kumar Bharti, Adv.
Mr. Shaan Munshaw, Adv.

For Respondent(s)

Mr. Nikhil Goel, AOR

Ms. Parul Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted. The appeals are disposed of in terms
of the signed order.

Pending application also stands disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)