

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6040 OF 2013
(Arising out of SLP(C) No.12533/2013)

BHAGUBHAI VITTHALBHAI PATEL

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

O R D E R

Leave granted.

2. Heard Mr. Savant, learned senior counsel appearing for the appellant and Mr. J.S. Attri, learned senior counsel appearing for the respondents.

3. The appellant is aggrieved by the order dated 26.2.2013 passed by the High Court of Gujarat in Special Civil Application No.2239 of 2013, whereby the High Court has declined to interfere with the order dated 30.1.2013 passed Below Exhibit 46 in Regular Civil Appeal No.49 of 2011 which is pending

before the District Judge, Surat.

4. The appellant is facing eviction proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The original authority has passed eviction order against the appellant and the appeal preferred by the appellant is pending before the District Judge, Surat. During the course of that proceeding, the appellant made an application bearing Exhibit No.46 to produce certain additional documents, which application has been rejected by the learned Judge leading to the above order of the High Court.

5. The submission of Mr. Savant, learned senior counsel appearing for the appellant is that the documents which were sought to be produced before the learned Judge, Surat, were already there before the original authority and he relies upon the Rojnamcha dated 14.7.2009 which indicates the same. Learned counsel submits that the appellant had filed his reply before the original authority along with those documents (Pages 74 to 402). They were taken on record though not admitted in evidence. A copy of the same was given to the counsel for the other side

as well.

6. We have seen the order of the learned Judge passed Below Exhibit 46. It is seen that among the documents which are mentioned in paragraph 5 of that order, documents at Sl. Nos.48 to 113 are of the year 2011, whereas the documents at Sl. Nos.1-47 are of the years from 1973 to 2000. Obviously many of these documents are subsequent to the date of the Rojnamcha dated 14.7.2009, and they could not have been permitted to be filed at the appellate level. Mr. Savant, however, fairly states that the appellant is prepared to restrict his prayer to the documents which were there prior to 14.7.2009 and which were produced before the original authority prior to the date of that order. He prays that he may be permitted to produce them in the appellate forum. He further submits that the appellant would like to produce some other documents as well.

7. In view of what is stated above, we allow this appeal to this limited extent. The order of the High Court as well as the Appellate Authority are

set aside to this limited extent, viz. that the documents which were filed before the original authority and which were dated prior to 14.7.2009, will be permitted to be produced before the Appellate Authority. As far as the documents other than these are concerned, it will be for the appellant to apply to the Appellate Authority i.e. the District Judge, and it will be for him to decide whether to entertain it. The appeal is disposed of accordingly.

.....J
(H.L. GOKHALE)

.....J
(MADAN B. LOKUR)

New Delhi;
July 22, 2013.

JUDGMENT