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At the Appellate Court
Jerusalem District

Appeal 4682/15

In the matter of:

1. _____ **Dwayat, ID No.** _____
2. _____ **Abu Kif, ID No.** _____
3. _____ **Atrash, ID No.** _____
4. _____ **Abu Ghanem, ID No.** _____
5. **HaMoked: Center for the Defence of the Individual,**
founded by Dr. Lotte Salzberger – RA No. 580163517

all represented by counsel, Adv. Benjamin Agsteribbe (Lic. No. 58088) and/or Sigi Ben Ari (Lic. No. 37566) and/or Hava Matras-Irton (Lic. No. 35174) and/or Anat Gonen (Lic. No. 28359) and/or Daniel Shenhar (Lic. No. 41065) and/or Bilal Sbihat (Lic. No. 49838) and/or Abir Jubran-Dakawar (Lic. No. 44346) and/or Nasser Odeh (Lic. No. 68398) and/or Nadia Dakah (Lic. No. 66713)

Of HaMoked Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger
4 Abu Obeida St., Jerusalem, 97200
Tel: 02-6283555; Fax: 02-6276317

The Appellants

v.

1. **Minister of Interior**
2. **Population and Immigration Authority**

represented by counsels of the legal department
15 Kanfei Nesharim Street, Jerusalem
Tel: 02-5489888; Fax: 02-5489886

The Respondents

Appellants' Request for the Deletion of the Appeal and for Costs

In view of respondent 2's response which was delivered to the appellants this afternoon, a few hours after the urgent appeal and the request for interim injunction and interim order were filed, the appellants request this honorable court to delete the appeal and give an order for costs and attorneys' fees in their favor for the following reasons:

The Chain of Events and Request for the Deletion of the Appeal

1. This appeal concerns respondents' disregard of appellants' urgent request for a full thirty day period in a bid to file written arguments against respondent 1's notice of his intention to revoke the permanent residency status of appellants 1-4.
2. As specified in the appeal, appellants' request to receive the entire period of time for the purpose of filing their arguments had already been submitted to the respondents on November 16, 2015, and despite of its urgency was not answered. Therefore, the appellants had no alternative but to file the appeal at bar and the request for interim injunction and interim order.
3. As indicated by the court fees payment receipt, the appeal was filed with the honorable court around 11:00 A.M.

A copy of the court fees payment receipt is attached and marked **A/12**.

4. As specified above, at 14:41 P.M. respondents' response was received by fax according to which, in view of appellants counsels' request, the last date for the submission of the arguments was December 15, 2015.

A copy of respondents counsel's letter of today is attached and marked **P/13**.

5. In view of said response and the extension granted for the submission of the arguments, the appellants request to delete the appeal.

Request for Costs

6. In addition to the request to delete the appeal the appellants will request the honorable court to issue in their favor an order for costs of trial and attorneys' fees for the reasons specified below.
7. As described in the appeal, the respondents failed to respond to appellants' urgent request despite their repeated letters and forced them to file an urgent request with this court for relief.
8. Therefore the appellants are of the opinion that it would be appropriate to obligate the respondents to pay trial costs and attorneys' fees.

The Legal Framework

9. The tests for the imposition of costs on the opposing party were established in H CJ 842/93 **Al-Nasasra v. Minister of Housing and Construction** as follows: was the filing of the petition justified in the first place; did the petitioner exhaust his remedies prior to the filing of the petition; had the petition been filed in delay; did the filing of the petition lead to the receipt of the remedy. It should be further noted that according to case law, the tests which were established regarding entitlement to costs in H CJ 842/93 **Al-Nasasra v. Minister of Housing and Construction** are not cumulative conditions, and a petitioner does not necessarily have to satisfy all of them to establish his entitlement to costs (see on this issue H CJ 5662/02 **Rish v. Minister of Transportation**, Tak-SC 2002(3) 3055).

10. From the general to the particular. Although as specified in HCJ 5662/02 **Rish v. Minister of Transportation** a petitioner does not have to satisfy all of the above conditions to establish his entitlement to costs, there is no doubt that in the appeal at bar the appellants satisfy all of the conditions which were established in HCJ 842/93 **Al- Nasasra v. Minister of Housing and Construction**, cumulatively. The appellants have properly exhausted their remedies prior to the filing of the appeal which was filed promptly without any delay. In addition, it is clear that the remedy which was received from respondent 2 was given only after the appeal was filed.
11. On this issue it should be noted that in HCJ 10239/03 **Seltzer v. Minister of Interior** it was also held that the authority's protracted failure to respond justifies, in and of itself, the imposition on the authority of the costs incurred by the civilian who had, as a result thereof, to turn to court. Under the circumstances of this case, the appellants are of the opinion that the respondents have inappropriately delayed their responses to appellants' urgent requests which were answered only after the appeal had been filed.
12. In view of all of the above, the appellants reiterate their request in the appeal that costs would be adjudicated in their favor.

Jerusalem, November 29, 2015.

Abir Jubran-Dakawar, Advocate
Counsel to appellants

(File No. 89542)