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At the Supreme Court
Sitting as the High Court of Justice

H CJ 6409/08

In the matter of: _____ **Azbeh et al**

Represented by Adv. Ido Blum and others

of HaMoked: Center for the Defence of the Individual founded
by Dr. Lotte Salzberger
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Tel: 02-6283555; fax: 02-6276317

The Petitioners

- Versus -

GOC Southern Command et al

The Respondents

Stipulation for Dismissal of the Petition Without Prejudice

The Honorable Court is moved to order the dismissal of the petition without prejudice.

1. The petition concerns the request of Petitioner 1, an Israeli citizen, that the Respondent permit her entry into the Gaza Strip in order that she be able to visit her husband who lives in the Gaza Strip.
2. The petition was filed after approximately 18 months of separation which was forced upon the couple by the Respondents: Due to the Respondents' refusal to allow the visit, the couple has not seen one another since December 2006.
3. In a response dated July 30, 2008, the Respondents' position was presented whereby they object to Petitioner 1's entry into the Gaza Strip to visit her husband who resides in the Gaza Strip due to a "security impediment... **in view of the above person's family's involvement in terror activity**".
4. On October 27, 2008 the Petitioners filed a response on their behalf to the Respondents' response. In the response, the Petitioners asserted that absolute prevention of the visit, **the significance of which is complete separation**

between spouses and in fact the tearing apart of the family unit, in view of security grounds which, also according to the Respondents, are entirely unconnected to the Petitioner herself, is very extreme, unreasonable and disproportionate.

5. On October 29, 2008 a hearing was conducted of the petition. During the hearing, and after they had inspected the privileged material, the Honorable Judges emphasized the need to find a practical solution which will allow the Petitioner to conduct a proper family life, *inter alia*, in view of the clear fact that “**she is being punished for the misconduct of others**” (the words of the Honorable Justice Levi during the hearing).

Accordingly, the Honorable Court ordered the parties “**to examine solutions which may assist the Petitioner to conduct a proper family life**” and to file updating notices on the matter within 21 days.

6. On November 6, 2008 the Petitioners’ counsel approached the Respondents’ counsel in an attempt to promote the matter and asked to receive from the Respondents a proposal for any practical solution which will allow a meeting between the Petitioner and her husband and which will be acceptable to the Respondents in accordance with the security considerations.

It was further written that “insofar as you believe that a meeting between the parties will serve to promote a solution of the issue, we will be happy to coordinate such a meeting as soon as possible”.

A copy of the letter of the Petitioners’ counsel to the Respondents’ counsel dated November 6, 2008 is attached and marked **p/5**.

7. **The letter received no response** and on November 13, 2008 a memo was sent on the matter.

A copy of the memo dated November 13, 2008 is attached and marked **p/6**.

8. Only several days later, on November 17, 2008, was a preliminary oral response received from the Respondents, and only on November 18, 2008 was their written response received – **only two days** before the conclusion of the period ruled by the Court in its decision.
9. In the response it was written, *inter alia*, that “no concrete possibility was presented in your letter that may be presented for the examination of the security agents... insofar as concrete proposals, which constitute a practical and logical solution, according to your definition, shall be raised, your proposals will be forwarded for the examination of the security agents”.
10. First, it should be stated that the fact that, during the period allocated by the Court, nothing at all was done on the matter on the part of the Respondents, and the Petitioners’ communication in an attempt to promote the issue was absolutely ignored – until the very end of the period and very close to the date that had been scheduled for the filing of the updating notice, in itself attests to

the sincerity and earnestness of the Respondents' willingness to find a practical solution to the issue.

11. On the merits, the Respondents' response is nothing but completely absurd and allows no real attempt to promote the issue. Regrettably, in an attempt to renounce their obligation to choose the restrictive measure whose injury is the lesser under the existing restrictions – from among all conceivable restrictive measures – the Respondents are attempting to pass the ball to the Petitioner's court by imposing an absurd condition whereby **they will only consider restrictive measures which the Petitioner herself shall propose.**

Clearly such a position necessarily brings things to a deadlock.

12. In any event, in view of the Respondents' uncompromising position and the enormous difficulties that they are heaping before the Petitioner and her husband – who have not met for already close to two years – **despite the fact that it is clear and declared that this is not due to their wrongdoing and they are being punished for the misconduct of others,** the couple have given up their attempts to conduct a normal family life in the present conditions and have announced that they wish to withdraw the petition.
13. In view of the aforesaid, the Honorable Court is moved to order the dismissal of the petition without prejudice.
14. The Respondents' counsel, Adv. Halawa, agrees to the dismissal of the petition without prejudice.

November 24, 2008

Adv. Ido Blum
Counsel for the Petitioners