

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Date of Decision: 16-10-1995.

Special Civil Application No. 4380 of 1983

For Approval and Signature:

THE HON'BLE MR. JUSTICE B.C. PATEL.

And

THE HON'BLE MR. JUSTICE H.R. SHELAT.

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether Their Lordships wish to see the fair copy of Judgment ?
4. Whether this case involves substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge?

Mr. S.B. Vakil, Advocate for the petitioner.

Mr. A.J. Desai, A.G.P., for respondents Nos. 1, 2 & 4.

Mr. Prashant G. Desai, for Mr. G.N. Desai, Advocate for respondent No.3.

Coram: B.C. Patel, J. & H.R. Shelat, J.  
(16-10-1995)

ORAL JUDGMENT: (Per: B.C. Patel, J.)

1. The petitioner, by preferring this petition under Article 226 of the Constitution of India, has challenged the Notification No.AM-74-3011/M/LSU/1474/110478/LA I dated 24.10.1974 issued by the Government of Gujarat under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') and Notification No. AM/77/1292/LSU/1417/110478/LA I dated 8-6-1977 of the Government of Gujarat issued under Section 6 of the Act for compulsory acquisition of 23239.86.68 sq.meters of land bearing C.T.S. Nos. 361 to 372 of Ward No. 7 of Surat for housing

purpose of the Municipal Corporation of Surat.

2. Mr. Vakil, learned counsel appearing for the petitioner submitted that in view of Section 11A of the Act which is inserted by Act No. 68 of 1984, the proceedings have lapsed as no award was made within a period of two years from the date of publication of the declaration. By preferring Civil Application No. 1459 of 1989 on 24-12-1991, the petition is amended and it has been specifically contended that no award has been made; and therefore the entire proceedings for the acquisition have lapsed under Section 11A of the Act. Section 11A of the Act reads as under;

"11.A. \_\_Period within which an award shall be made.\_\_The Collector shall make an award under Sec. 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse :

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition(Amendment) Act, 1894, the award shall be made within a period of two years from such commencement.

Explanation.\_\_In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a court shall be excluded."

Declaration under Section 6 of the Act in the instant case was published before the commencement of the Amendment Act and hence the award was required to be made within a period of two years from such commencement, i.e., before 24-9-1986. It is pointed out in the petition that by an order dated 9-9-1983, the Court passed an order restraining the authority from making an award which was in operation till 12-3-1985. Hence, considering this period during which there was a stay, the award was required to be made on or before 11-3-1987. Till this date, there appears to be no award. Though the amendment is allowed on 24-12-1991, no reply is filed on behalf of the respondents, i.e., Municipal Corporation or the State of Gujarat. Nothing is placed on the record by respondents to indicate that the award has been made in accordance with law, and in view of this, it is clear that the entire proceedings for the acquisition of land got lapsed by efflux of time as per the provisions of Section 11A of the Act. As the proceedings got lapsed, it goes without saying that in view of Notification referred to hereinabove, there is no question of acquiring the land.

In view of what is stated hereinabove, it is declared

that the proceedings for compulsory acquisition of the petitioner's land pursuant to the impugned notifications, Annexures 'A' & 'B' shall stand lapsed under Section 11A of the Act. The petition is, therefore, allowed with no order as to costs. Rule is made absolute accordingly.

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