

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8165 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

SMT. RAMA CHAMPAKLAL DOSHI

Versus

COMPETENT AUTHORITY AND DY. COLLECTOR(ULC), RAJKOT & ANR.

Appearance:

Shri J.R. Nanavaty, Advocate, for the Petitioner

Shri A.G. Uraizee, Asst. Govt. Pleader, for the
Respondents

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 28/02/96

ORAL JUDGEMENT

The order passed by the Competent Authority at Rajkot (respondent No.1 herein) on 14th February 1984 under sec. 8(4) of the Urban Land (Ceiling and Regulation) Act, 1976 (the Act for brief) as affirmed in appeal by the order passed by the Urban Land Tribunal at Ahmedabad (respondent No.2 herein) on 30th November 1987 in Appeal No. Rajkot-717 of 1984 is under challenge in this petition under art. 226 of the

Constitution of India. By his impugned order, respondent No.1 declared the holding of the petitioner to be in excess of the ceiling limit by 1706.95 square meters.

2. The facts giving rise to this petition move in a narrow compass. The petitioner filed her declaration in the prescribed form under sec. 6(1) of the Act with respect to her holding within the urban agglomeration of Rajkot. It appears that her total holding was found to be 3206.95 square meters. It appears that out of her total holding, she had applied for permission under sec. 21(1) of the Act with respect to certain area of land in all admeasuring 1570.68 square meters. The necessary permission came to be granted by the order passed by respondent No.1 on 15th June 1980 on certain terms and conditions. Since it was found that the petitioner made breach of certain terms and conditions, by the order passed by respondent No.1 on 2nd December 1982 under sec. 21(2) of the Act, the earlier permission under sec. 21(1) of the Act granted on 15th June 1980 came to be cancelled. The petitioner carried that order in appeal before respondent No. 2 under sec. 33 of the Act. That appeal came to be disposed of as withdrawn at the instance of the petitioner herein on 16th December 1983. Thereafter the declaration filed by the petitioner under sec. 6(1) of the Act was duly processed by respondent No. 1. After observing necessary formalities under sec. 8 thereof, by his order passed on 14th February 1984 under sec. 8(4) of the Act, respondent No.1 declared the holding of the petitioner to be in excess of the ceiling limit by 1706.95 square meters. Its copy is at Annexure A to this petition. The aggrieved petitioner carried the matter in appeal before respondent No. 2. under sec. 33 of the Act. By the order passed on 27th November 1984 in the aforesaid appeal, respondent No.2 dismissed it. Its copy is at Annexure B to this petition. The aggrieved petitioner has thereupon approached this Court by means of this petition under art. 226 of the Constitution of India for questioning the correctness of the order at Annexure A to this petition as affirmed in appeal by the appellate order at Annexure B to this petition.

3. It has been urged by learned Advocate Shri Nanavaty for the petitioner that the petitioner had filed the declaration under sec. 6(1) of the Act on behalf of the family consisting of herself and her major son. The authorities below have, more particularly respondent No.2 in the appellate order at Annexure B to this petition has, clearly held that the petitioner has not been able to prove that she had a major son on the date of coming into force of the Act and was therefore not entitled to an additional unit. That would certainly constitute a pure finding of fact. It would not be possible for this Court to interfere with such

finding of fact in exercise of its writ jurisdiction under art. 226 of the Constitution of India.

4. In the result, this petition fails. It is hereby rejected. Rule is accordingly discharged with no order as to costs. The ad-interim relief stands vacated.

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