

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 685 of 1985

Date of decision: 28-11-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

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 the judgment?
4. Whether this case involves a 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?

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MOHANBHAI R BAMROLIA

Versus

STATE OF GUJARAT  
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Appearance:

Mr. K. Y. Kogje for Petitioners  
Mr. C. C. Bhalje for Respondent No. 1  
None present for other Respondents  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/11/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

By order dated 16-5-1980 respondent No.2 ordered for auction of plots No.40/1, 40/2, 41/1, 41/2 and 41/3 of Survey No.417 of village Behsan. Those five plots were auctioned on 26th June, 1980. The petitioners were found to be the highest bidders for plots No.41/1, 41/2 and 41/3. The Gram Panchayat accepted the sale by auction of the plots vide its resolution dated 27-6-1980. The petitioners had deposited the full purchase price of the plots on 26th June, 1980. Possession of the plots were delivered to the petitioners, as per their case, and thereafter they spent huge amounts in levelling the land and for development of the same. Respondent No.2 has not accepted the sale of those plots in favour of the petitioners and two other persons on the ground that the auction was not conducted in accordance with law .

2. Respondent No.2 under his order dated 30th July, 1984 declared the auction of the plots in favour of the petitioner as illegal. This order was taken up by the petitioners in revision before the State Government, but the same came to be dismissed under order dated 19th December, 1984. Hence this special civil application before this court.

3. During the course of argument today, the counsel for the petitioners has produced on record of the special civil application an order of the District Development Officer, Junagadh , dated 15th May,1995. That document has been shown to the counsel for the respondents. Two other auction purchasers of plots No.40/1 and 40/2 against whom respondent No.2 had declared the auction to be illegal have taken proceedings before the civil court and in the civil suits filed by those two persons the auction of those plots were held to be valid and legal. That decision of the trial court has been challenged by the respondents before the appellate court and the appeal also came to be dismissed. Thereafter under the aforesaid order the District Development Officer has regularised the sale of those plots in favour of those two purchasers. Counsel for respondent No.1 fairly admits that under the order aforesaid auction of the two plots No.40/1 and 40/2 was regularised. It is not in dispute between the parties that the plots aforesaid and the plots in question were put to auction on the same day. So there was common auction of the plots No.40/1, 40/2 and the three plots in dispute. Once the Civil Court has held the auction to be valid and legal and in pursuance of the decision of the court respondent No.2 has already regularised the auction of those two plots,

then the same treatment deserves to be given to the petitioners also. The illegality which has been found in conducting the auction of those plots now no more survives in view of the fact that the Civil Court has declared the auction to be fair and legal. In view of this fact, interest of justice will be met in case directions are given to respondent No.2 to consider the case of the petitioners for regularisation of the sale of plots in their favour, which has been done in the case of two other auction purchasers of plots No.40/1 and 40/2.

4. In the result this special civil application succeeds, and the same is allowed. Order of the District Development Officer and that of the State Government impugned in this special civil application are quashed and set aside. The District Development Officer, Junagadh is directed to consider the case of the petitioner for regularisation of the auction of plots in dispute in accordance with his order dated 15th May, 1995 passed in the matter of two other plots, namely plots No.40/1 and 40/2. Special Civil Application stands disposed of. Rule made absolute accordingly. No order as to costs.

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