

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2661 of 1980

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?

PRAJAPATI JAYANTILAL HARGOVINDDAS

VS.

DISTRICT DEVELOPMENT OFFICER

Appearance:

MS. MAMTA VYAS for Petitioner

None present for Respondent No. 1, 3

MR VC DESAI for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/11/97

ORAL JUDGEMENT

The land in dispute is a small piece of land measuring about 56 sqmt. which was given to the petitioner by the Taluka Development Officer under order dated 20th October, 1978, in pursuance of the resolution of the Government dated 24th April, 1978. The petitioner paid the price of the land on 6th November, 1978. Permission was also granted to the petitioner by the Gram Panchayat concerned for construction of house on the land. Respondent No.2, being felt aggrieved by the sale of the land in dispute to the petitioner, filed appeal No.54/74 before respondent No.1. The matter was remanded back to the Taluka Development Officer, Sidhpur. After remand the Taluka Development Officer, Sidhpur, under his order dated 16th June, 1979 held that the petitioner is an agricultural labourer and he had got no property in the village for his residence and consequently he is entitled to purchase of the land in pursuance of the Government resolution referred therein. Respondent No.1 was not satisfied by that order and the matter was taken up by him before respondent No.1 again. That appeal came to be dismissed on 7th December, 1979. Then he approached the State Government by filing revision application. The revision application came to be allowed under order dated 28th March, 1978. Hence this special civil application before this court.

2. Heard the learned counsel for the parties.

The counsel for respondent No.2 does not dispute that he is already having three houses in the village. In view of this fact respondent No.2 cannot be said to be an aggrieved person in the matter. Otherwise also the respondent State Government has not given its finding that the petitioner was not eligible for allotment of the land in dispute by way of sale by the Taluka Development Officer concerned. Even if it is taken that respondent No.1 had earlier remanded the matter back to the Taluka Development Officer, with direction to make enquiry, and that enquiry has not been made, on this ground alone the order passed in favour of the petitioner could not have been set aside by the State Government. It is not a case, as observed earlier, that the petitioner was not an agricultural labourers and landless person. In view of the facts aforesaid, interference of the State Government in the matter in the revision application and that too at the instance of respondent No.2 is wholly arbitrary and unjust.

3. In the result this special civil application succeeds and the same is allowed. Order dated 28th March, 1980 at annexure-D is quashed and set aside. Rule made absolute. No order as to costs.

