

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8436 of 1997

to

SPECIAL CIVIL APPLICATION No 8463 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
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?
5. Whether it is to be circulated to the Civil Judge?

HARSHADKUMAR SHANTILAL PATEL

Versus

STATE OF GUJARAT

Appearance:

MR HARIN P RAVAL for Petitioner
MR PG DESAI, LD. G.P. for Respondent Nos. 1 to 3 in
S.C.A. Nos. 8436 to 8445 of 1997,
MR DP JOSHI, LD. A.G.P. for Respondent Nos.1 to 3 in
S.C.A. Nos. 8446 to 8454 of 1997,
MR MUKESH PATEL, LD. A.G.P. for Respondents Nos. 1
to 3 in S.C.A. Nos. 8455 to 8463 of 1997,
NOTICE SERVED BY DS for Respondent No. 4, 5

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 30/12/98

ORAL JUDGEMENT

1. In these petitions common questions of law and facts have been raised. However, these petitions can be disposed of by this common judgment by making open opportunity of hearing to the petitioners and all affected parties.

2. Heard Mr. Harin Raval, learned advocate for the petitioners in each of these petitions and Ld. G.P. and Ld. A.P.Gs. for the respondents nos. 1 to 3. Respondents nos. 4 and 5 though served have not appeared.

3. The petitioners in respective petitions have challenged the order dated 13/8/1993 - Annexure-H passed by the District Collector, Panchmahals at Godhra upon application of the respondent no.5. The said order was carried in Appeal before the respondent no. 2 - Additional Chief Secretary (Appeals), Revenue Department, who by his order dated 18/11/1995 - Annexure-K has confirmed the order of the Collector.

4. It has been contended on behalf of the petitioners that in none of the proceedings either before the Collector or before the Appellate Authorities, the petitioners were party and though both the impugned orders affect the rights of the petitioners, they have not been heard and no notice is issued.

5. Hence, in view of the above position, the following order is passed :-

I. The orders at Annexure-H dated 13/8/1993 and Annexure-K dated 18/11/1995 passed by respondent no. 3 - Collector or respondent no. 2 Additional Chief Secretary (Appeals), Revenue Department, State of Gujarat dated 10-4/5-1990 are quashed and set aside.

II. Liberty is reserved to the respondent no. 3 to initiate fresh proceedings in the matter.

III. In case fresh proceedings are initiated, the respondent no. 3 - Collector shall issue notice to the petitioners and all other interested parties and shall give an opportunity of hearing to all concerned before taking a decision in the matters.

IV. It will also be open for the respondent no. 5 to

apply for being heard in the matter, if fresh proceedings are initiated.

In view of the above directions, the petitions are disposed of and Rule is made absolute in each petition to the above extent. No orders as to costs.

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