

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1293 of 1997

in

SPECIAL CIVIL APPLICATION No 204 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
No
2. To be referred to the Reporter or not? No :
3. Whether Their Lordships wish to see the fair copy of the judgement? : YES
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? : YES
No
5. Whether it is to be circulated to the Civil Judge? No :

COMPETENT AUTHORITY & ADDL. COLLECTOR U.L.C. BR.

Versus

RAMJIBHAI JIWANBHAI PATEL

Appearance:

MR ST MEHTA, AGP for Appellant

MR MI HAVA for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL and

MR.JUSTICE P.B.MAJMUDAR

Date of decision: 30/11/1999

ORAL JUDGEMENT

(Per : Panchal, J.)

This appeal, which is filed under Clause 15 of the Letters Patent, is directed against judgment dated March 18, 1997, rendered by the learned Single Judge, in Special Civil Application No. 204/97, by which order dated October 30, 1985 passed by the Competent Authority and Additional Collector (ULC), Surat declaring 34913 sq.mts. of land as excess land as well as order dated November 30, 1996 passed by the Urban Land Tribunal, Ahmedabad confirming order of the Competent Authority, are set aside.

2. The respondent is owner of lands bearing Survey Nos. 116, 65/2, 69/2 and 9/1 situated in village Pandesara, District : Surat. The total holding of the respondent was about 36413 sq.mts. He submitted a statement under section 6(1) of the Urban Land (Ceiling & Regulation) Act, 1976 ("Act" for short). The Competent Authority and Additional Collector, ULC, Surat processed the statement submitted by the respondent and declared 34913 sq.mts. of land as excess land by order dated October 30, 1985. That order was subsequently modified by an order dated April 18, 1987 so far as survey No.116 is concerned and it was held by the Competent Authority that out of 19830 sq.mts. of land of Survey No.116, 6374 sq.mts. of land was excess land. However, rest of the order dated October 30, 1985 was not modified by the Competent Authority and Additional Collector, ULC, Surat in any manner at all. Feeling aggrieved by the above-referred to two orders, the respondent preferred an appeal before the Urban Land Tribunal, Ahmedabad. The Tribunal rejected the appeal by judgment dated November 30, 1996. The order of the Tribunal was challenged by the respondent by way of filing Special Civil Application No. 204/97. The learned Single Judge has allowed the petition and set aside order of the Competent Authority dated October 30, 1985 as well as order passed by the Tribunal on November 30, 1996 by the impugned judgment, giving rise to the present appeal, which is filed by the Competent Authority and Additional Collector, ULC, Surat.

3. It may be mentioned that the Parliament has enacted The Urban Land (Ceiling and Regulation) Repeal Act, 1999 by which the Urban Land (Ceiling & Regulation) Act, 1976 is repealed. Section 4 of the repealing Act provides that all proceedings relating to any order made or purported to be made under the repealed Act pending immediately before the commencement of the Act, before any Court, Tribunal or other authority shall abate. The proviso to the said section specifies that section 4 shall not apply to the proceedings relating to sections

11, 12, 13 and 14 of the repealed Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government in this behalf or by the Competent Authority. The record does not indicate that after passing of the order by the Competent Authority declaring 34913 sq.mts. of land as excess land, possession of the said land was taken over either by the Government or by the Competent Authority. Mr. S.T.Mehta, learned A.G.P. has produced a letter dated October 7, 1999 addressed by the Competent Authority and Additional Collector, Surat to the learned Government Pleader, Gujarat High Court, Ahmedabad. In the said letter it is specifically mentioned that though notice dated December 26, 1991 issued under section 10(5) of the repealed Act as well as notice dated April 13, 1992 issued under section 10(6) of the repealed Act were served on the respondent, possession of the land declared to be excess land is not taken over by the Government. The aforesaid letter is ordered to be taken on record of the case. As mentioned earlier, order passed by the Competent Authority as well as the order passed by the Urban Land Tribunal have been set aside by the learned Single Judge and it is not the case of the appellant that during the pendency of the petition or during the pendency of this appeal, possession of the land declared to be excess was taken over either by the State Government or by the Competent Authority. Under the circumstances, it will have to be held that the Letters Patent Appeal has abated in terms of the provisions of section 4 of the repealing Act. As Letters Patent Appeal has abated, the same deserves to be disposed of accordingly.

For the foregoing reasons, it is held that Letters Patent Appeal has abated. We make it clear that we have not pronounced upon legality or otherwise of the judgment rendered by the learned Single Judge which is impugned in the present appeal or the order passed by the Competent Authority as confirmed by the Urban Land Tribunal. The Letters Patent Appeal is dismissed as having abated, with no order as to costs.

(patel)