

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 159 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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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?

PATEL NANABHAI KALUBHAI

Versus

DISTRICT PANCHAYAT

Appearance:

MR KS JHAVERI for Petitioners
MR MUKESH R SHAH for Respondent No. 1
Mr.Umesh Trivedi, learned A.G.P.
for Respondent No. 2
MR RN SHAH for Respondent No. 3
MR DF AMIN for Respondent No. 4, 5, 6
Mr.C.M.Trivedi, Dy. Development Officer of District
Panchayat,Dahod is also present.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 26/02/99

ORAL JUDGEMENT

Rule. Mr. M.R.Shah waives service of rule on behalf of respondent No.1, Mr. Trivedi, learned A.G.P. waives service of rule on behalf of respondent No.2,

Mr.R.N.Shah waives service of rule on behalf of respondent No.3 and Mr.D.F.Amin waives service of rule on behalf of respondents Nos.4 to 6.

On the request of the learned counsel, the matter is taken up for final disposal.

On behalf of respondents Nos.4 to 6 Mr. Amin has submitted that he is prepared to leave the space upto 22 ft. for the road in the village and that while constructing his house he would not make any construction on any part of the land so as to reduce the width of the road to any extent short of 22 ft. for the time being till he is able to get his claim decided by a competent court because he is claiming that he has a right to raise the construction of his house on that part of the land on which his house was already existing earlier, which he has demolished and now he has taken up the work of re-construction on the same line. Suggestion made by Mr. Amin, as aforesaid, is acceptable to the learned counsel for the petitioner i.e. villagers who have come to file this petition and is also acceptable to other parties.

Accordingly with the consent of all the parties it is ordered that the respondents Nos.4 to 6 shall not raise any construction on any part of the land so as to reduce the width of the land to any extent short of 22 ft. In case the respondents Nos.4 to 6 get their claim on any part of the land adjudicated by a competent court or authority in their favour, all legal consequences shall follow, but till the date the claim of the respondents Nos.4 to 6 is decided by a competent court or authority, the respondents shall have no right on any part of the land so as to encroach upon that part of the road of 22 ft. width. If there is any existing construction on any part of the road to the extent of the width of 22 ft. the same shall be immediately demolished or undone by the respondents Nos.4 to 6 themselves and the villagers right to move on this 22 ft. wide road shall not be obstructed in any manner by the respondents Nos.4 to 6 till the decision of his claim by the competent court or the authority.

This Special Civil Application is, therefore, partly allowed and the Rule is also made absolute to the extent, as above. In the facts and circumstances of this case, no order as to costs.

