

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 450 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
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? : NO

ARVIND RATILAL DALAL

Versus

STATE OF GUJARAT

Appearance:

MR YN OZA for Petitioners
M/S PATEL ADVOCATES for Respondent No. 1
MR JR NANAVATI for Respondent No. 2
M/S PURNANAND & CO for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 31/08/2000

C.A.V . JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioners, in all four in number, by this
petition under Article 226 of the Constitution are

praying for the following reliefs:

- A) be pleased to admit this Special Civil Application;
- B) be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus declaring that the decision and action of the respondent authorities of placing the land situated at S. No.182 P of village Gaviyar, Taluka Chorasi, District Surat under reservation for the purpose of Gujarat State Road Transport Corporation and also placing the said land under agricultural zone as illegal, null and void and further be pleased to direct the respondent authorities, their agents and servants to declare and issue appropriate notification showing the said land bearing S. No.182 P of village Gaviyar, Taluka Chorasi, District Surat, under residential zone;
- C) pending admission, hearing and final disposal of this petition, be pleased to stay the further implementation, execution and operation of the decision of the respondent- authorities by which the land situated at S. No.182 P of village Gaviyar, Taluka Chorasi, District Surat is kept under reservation for the use of Gujarat State Road Transport Corporation.
- D) be pleased to pass such other further orders as may be deemed fit in the interest of justice.

3. The petitioners purchased the plots by registered sale deeds, details such as area, number and date of sale deed are given in para-3 of the special civil application. They purchased the respective plots aforesaid from the survey number 182 P of village Gaviar, Taluka Chorasi, District Surat. It is admitted case of the petitioners that the State Government has issued a notification bearing No.GH/B/60 of 1985/DVP/1481/1428/85/L dated 30th April, 1985 under the provisions of Section 17 (1)(a)(ii) of the Gujarat Town Planning and Urban Development Act, 1976 specifying therein the draft development plan for the area within the jurisdiction of Surat Urban Development Authority. The land of S. No.182 P in that draft development plan has been classified and placed in agricultural zone. It is also not in dispute that the final development plan has been approved and which has been published vide notification No.GH/V/46 of 1986/DVP/1481/384 (86)L dated

31st January, 1986 under section 17 (1)(c) of the Act aforesaid. In the final development plan, this land of S. No. 182 P falls under the area reserved for Gujarat State Road Transport Corporation.

4. The petitioners have not produced this notification on the record nor a very specific prayer has been made for quashing and setting aside of the same. In the absence of those notifications, relief of the nature as prayed for cannot be granted to the petitioners. Otherwise also, this petition deserves to be dismissed only on the ground of delay and laches. The draft development plan has been published vide notification dated 30-4-1985 and I find from the special civil application that the petitioners were known of that notification. On the record of this special civil application, the petitioners have not produced any evidence that against this draft development plan they filed any objection. The final development plan was approved and published vide notification dated 31-1-1986 and this petition has been filed by the petitioners in the Court on 12-1-1989 i.e. after about three years of the publication of the final development plan. The petitioners have failed to furnish any explanation for this inordinate delay in filing of the special civil application.

5. This land has been reserved in the final development plan for Gujarat State Road Transport Corporation, and I fail to see any illegality therein. For the development of cities, naturally lands are to be reserved for public purposes and reservation of the land for Gujarat State Road Transport Corporation is certainly a public purpose. Because of conjunction in the city, naturally the existing bus stands of the G.S.R.T.C. are to be shifted to open plots so that the traffic problems and traffic conjunction may not be there in the cities. This is a public purpose for which the land has to be earmarked in the development plan by the State Government and that what precisely it has been done. It is true that this reservation has to be for a prescribed period during which the lands if are not vested in the Government are to be acquired from the owners thereof by paying them the compensation. Learned counsel for the petitioners has failed to give out what ultimately happened to this reservation. Period of reservation can also be extended from time to time. These facts also have not been disclosed by the petitioners. During the pendency of the special civil application, it is the duty of the petitioners to bring all the subsequent developments which have taken place on the record. This

petition filed by the petitioners is wholly misconceived.

6. Even if it is taken that the petitioners have constructed their house but when the land has been reserved for G.S.R.T.C. it has to be acquired and to be given to the Corporation. Possibly, as this court has protected the petitioners by grant of interim relief, these acquisition proceedings could not have taken place or even the acquisition proceedings would have been there, the possession could not have been taken. The petitioners by this interim relief have made it difficult for the respondents to proceed further for acquisition of the land and taking of the possession thereof. Learned counsel for the petitioners has failed to show any illegality or irregularity in the notification of the final development plan which calls for the interference of this Court. If on the ground which has been taken by the petitioners that the residential houses are there on the land, if this final development plans are to be disturbed by the Courts, then there will be no development of the cities.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

zgs/-