

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7489 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

- =====
1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgement?
  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

-----  
KATHIAWAR GYMKHANA CLUB

Versus

STATE OF GUJARAT  
-----

Appearance:

1. Special Civil Application No. 7489 of 2001  
MR MIHIR H JOSHI for Petitioner  
MS HANSA PUNANI, ld.AGP for Respondents No. 1,2-3  
MR AR THACKER for Respondent No. 4  
MR BP TANNA with MR RM CHHAYA for newly added  
respondent no.5.
- 

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 30/10/2001

ORAL JUDGEMENT

Heard learned Counsel appearing for the

respective parties. Rule. Ms.Hansa Punani, ld.AGP waives service of Rule on behalf of respondents nos.1 to 3, Mr.A.R.Thacker waives service of Rule on behalf of respondent no.4 and Mr.R.M.Chhaya waives service of Rule on behalf of the newly added respondent no.5.

2. The petitioner - Kathiawar Gymkhana Club in this petition has challenged the order passed by the Collector, Rajkot, dated 16.6.2001 at Annexure.J in Land Appeal Case No.206 of 1999-2000 filed by Balkrishna Laljini Haveli, respondent no.4 and the order dated 13.8.2001 at Annexure.M passed by the City Survey Superintendent, Rajkot, in Remand Case No.4 of 2000-2001, on the ground that the same are without jurisdiction and in complete violation of the principles of natural justice etc.

3. During the course of the hearing, learned Counsel appearing for the parties submitted that they will have no objection if the matter is remanded to the Collector, Rajkot with a direction to restore the Land Appeal Case No.206 of 1999-2000 filed by the respondent no.4 on his file after issuing notice to the affected parties and after giving an opportunity of being heard to all the parties and to decide the matter in accordance with law.

4. In view of the above, without entering into the merits of the case, with the consent of the parties, the impugned order dated 16.6.2001 at Annexure.J passed by the Collector, Rajkot in Land Appeal Case No.206 of 1999-2000 filed by Balkrishna Laljini Haveli, respondent no.4 and the order dated 13.8.2001 at Annexure.M passed by the City Survey Superintendent, Rajkot, in Remand Case No.4 of 2000-2001 are quashed and set aside and the matter is remanded to the Collector, Rajkot with a direction to restore the Land Appeal Case No.206 of 1999-2000 filed by the respondent no.4 on his file with the following directions:

- (1) The Collector, Rajkot shall decide the matter in accordance with law after issuing notice to the affected parties and after giving an opportunity of hearing to all the parties.
- (2) It will be open for the parties to raise all available contentions including the contention of limitation.
- (3) The parties would be permitted to lead evidence if they so desire.

(4) Since the litigation between the parties  
is going on for more than 30 years, the  
Collector shall decide the matter as  
expeditiously as possible and preferably  
within three months from the date of  
receipt of the writ of this Court.

This petition is accordingly allowed and the Rule  
is made absolute with no order as to costs. Writ to be  
issued forthwith. Direct service is permitted.

(K.R. Vyas, J.)

Sreeram.