

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4930 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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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 concerned : NO
Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals?

NATVARLAL ISHWARBHAI DESAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4930 of 1992
MR BJ JADEJA for Petitioner No. 1-2
MS SONAL VYAS AGP for respondent-State
M/S PATEL ADVOCATES for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 31/07/2002

ORAL JUDGEMENT

#. Against the impugned order at Annexure-C dated 21.9.1992 passed by the Gujarat Revenue Tribunal, this petition is filed.

#. This petition was admitted after issuing notice to the other side and the impugned order passed by the tribunal was stayed and the same is continued till today.

#. Learned counsel Shri Jadeja for the petitioner submits that both the petitioners, who were sons of Ishwarbhai were majors. The land stood in their name. Birth certificates were also on the record before the Tribunal to show that they were majors. In spite of that the learned Tribunal held in para 10 of its judgment that there was no authentic evidence. Accordingly, the learned Tribunal partly dismissed the revision application on that point but partly allowed on other point and remanded to the Additional Mamlatdar and ALT, Olpad for obtaining the canal certificate from the Canal Office after extending an opportunity of hearing to the petitioners and after receiving such certificate Mamlatdar was directed to consider it regarding two units of the brothers. He, therefore, submitted that part of the impugned order passed by the learned Judge be set aside and the entire matter be remanded to the Mamlatdar & ALT.

#. On facts of this case, learned AGP Ms.Sonal Vyas was hardly in a position to object to this.

#. In view of the above, this petition is allowed and while confirming the impugned order passed by the Tribunal remanding the matter to Additional Mamlatdar & ALT on a particular point, the entire matter is remanded to the Addl. Mamlatdar & ALT to consider the question regarding units of the present petitioners as well as certificate as directed by the Tribunal. Accordingly, this petition is allowed. Rule made absolute. Interim relief, granted earlier stands vacated.

(B.J.Shethna, J.)

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