

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7889 of 1997

with

CIVIL APPLICATION NO.5295 of 2001

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?
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STATE OF GUJARAT

Versus

URBAN LAND TRIBUNAL & ADDL. CHIEF SECRETARY

Appearance:

MR PR ABHICHANDANI, AGP for Petitioner - State

NOTICE SERVED for Respondent Nos. 1-2

MR BM MANGUKIYA for Respondent Nos. 3-10

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 31/07/2002

ORAL JUDGEMENT

#. On 25th July, 2002, the following order was passed by me.

"1. This petition has come up today for orders on the note filed by Mr.Mangukiya, learned counsel appearing for private respondents. As per

the note, this petition stood abated with the Act No.15 of 1999 i.e. Urban Land (Ceiling & Regulation) Repeal Act, 1999 coming into force. This was not disputed by learned AGP, Mr.P.R.Abhichandani appearing for the petitioner State of Gujarat. Accordingly, this petition has to be disposed of as having become abated and accordingly it is disposed of.

2. Once, the petition is disposed of as having become abated, interim order passed by the learned Single Judge of this Court on 10.11.1997 directing the authorities to maintain status quo has to be vacated. However, learned AGP, Abhichandani for the petitioner submits on instruction received from Shri D.B.Vora, Addl. Collector, Bhavnagar, who is present before the court that as the Panchnama dated 26.6.1996 the Government has already taken over the possession of the land in question. He has shown panchnama to that effect. However, Ms.Bala Prajapati for the respondents submits that the possession of the land in question always remained with the respondents. Not only that they have taken loan on it and even till today they are in possession and cultivating the said land.

3. In view of this controversy, it is made clear that if the possession of the land in question is already vested with the Government, then it shall remain with it otherwise not.

4. Accordingly this petition could have been disposed of today itself but on the request of Ms.Bala Prajapati for Mr.Mangukiya, this matter is kept on 31.7.2002 in the first Board as first case, because for today and tomorrow Mr.Mangukiya has filed sick note."

#. Today, Mr.B.M.Mangukiya, learned counsel for the respondents has filed a leave note and in his place, Ms.Bela Prajapati appears. She has filed affidavit-in-reply of respondent No.4 along with number of documents, showing that they are in possession of the land in question.

#. I made it more than clear in earlier order dated 25th July, 2002 that if the possession of the land in question is already vested with the Government, then it shall remain with it otherwise not. If according to the respondents, the possession is already with them then it

shall remain with them. Accordingly, in terms of the order dated 25th July, 2002, this petition is disposed of as having become abated and accordingly it is disposed of. Rule is discharged. No order as to costs.

The main petition i.e. Special Civil Application No.7889 of 1997 is disposed of today. Therefore, the Civil Application filed in it, does not survive and accordingly it is disposed of. Notice is discharged.

[B. J. SHETHNA,J.]

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