

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10880 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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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

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SHREE MANEKKRUPA EDUCATION TRUST

Versus

DISTRICT COLLECTOR & MAGISTRATE

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Appearance:

1. Special Civil Application No. 10880 of 2001  
MR RK MISHRA for Petitioner No. 1  
Ms. SB TRIVEDI, AGP, for Respondent No. 1-2,5  
HL PATEL ADVOCATES for Respondent No. 3  
MR SHALIN N MEHTA for Respondent No. 4
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CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 10/05/2002

ORAL JUDGEMENT

Rule. Service of rule is waived by learned AGP  
Ms. S.B. Trivedi for respondents Nos. 1 and 2, learned

advocate Shri Rakesh Sharma for respondent No. 3 and learned advocate Shri Shalin Mehta for respondent No. 4. At the request of the learned advocates, the petition is finally heard today.

2. In this petition the petitioner has challenged validity of an order dated 19.5.2000 passed by the Collector, Sabarkantha as well as an order dated 3.11.2001 passed by the City Survey Superintendent having his office at Himatnagar.

3. After hearing the learned advocates and upon perusal of the impugned order, it is very clear that the order dated 19.5.2000 passed by the Collector, Sabarkantha is an interim order, whereby the petitioner has been instructed not to put up construction till further instructions are given to him. It has been submitted by learned advocate Shri Mishra appearing for the petitioner that after the said order was passed by the Collector, the Collector has not passed any further order and, therefore, the petitioner is unable to put up further construction. It has been submitted by the learned advocates appearing for the respondents that the said order has already been challenged by filing an appeal. Be that as it may, the impugned order dated 19.5.2000 is an interim order and it would be in the interest of the parties if the Collector hears the concerned parties and takes final decision on the subject-matter of the impugned order dated 19.5.2000. The Collector shall issue fresh notice to the concerned parties within a period of three weeks from the date of receipt of this order and shall take final decision within four weeks thereafter.

4. The petitioner has also challenged validity of an order dated 3.11.2001 passed by the City Survey Superintendent, Sabarkantha. By virtue of the said order, the City Survey Superintendent has asked the petitioner to demolish the construction which has been put up in violation of the legal provisions. It has been submitted by the learned advocates appearing for the respondents that the said order passed by the City Survey Superintendent has also been challenged by the petitioner by filing an appeal and the appeal is pending.

5. It has been submitted by learned advocate Shri Mishra that the subject-matter of both the impugned orders is the same. In the circumstances, the order passed by the City Survey Superintendent should not be implemented till the Collector, Sabarkantha takes final decision in pursuance of notice dated 19.5.2000.

6. In view of the above fact, it is directed that till the Collector, Sabarkantha takes final decision on the subject-matter of this petition, the construction put up by the petitioner shall not be demolished.

7. If, in the course of the proceedings, any application is given by any party, I am sure that the Collector shall decide the same in accordance with law.

8. In view of the order passed hereinabove, the petition stands disposed of as partly allowed. Rule is made absolute to the above extent with no order as to costs.

Direct service is permitted.

(A.R. Dave, J.)

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