

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1975 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed : YES
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?

RANCHHODBHAI D PATEL

Versus

MAGANBHAI GORDHANBHAI PATEL

Appearance:

1. Special Civil Application No. 1975 of 1989
MR JITENDRA M PATEL for Petitioner No. 1
NOTICE SERVED for Respondent No. 1
RULE SERVED for Respondent No. 2,4
MR BS PATEL for Respondent No. 3

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 31/01/2003

ORAL JUDGEMENT

The present petition is filed against the order of the District Panchayat dated 6.9.1986 at Annexure D, and the order dated 31.12.1988 of the Additional Development Commissioner at Annexure F. It is the grievance of the petitioner that the Additional

Development Commissioner has rejected the Revision Application without discussing anything on merits. It is stated in the petition that the Development Commissioner had fixed the hearing of the revision application on various dates and the last date of hearing was 10-6-1987, when the Development Commissioner had adjourned the matter on his own and stated that the next date would be informed by the office. Thereafter the office of the Development Commissioner had fixed the hearing after one year and three months, i.e. on 21.9.1988. Even before the date of hearing, the petitioner received the intimation that the hearing was changed from 21.9.1988 to 19.10.1988 and the petitioner received further intimation from the office of the Development Commissioner that the hearing was again changed to 21.10.1988. It was further submitted that the petitioner remained present on that date and had filed an application for adjournment signed by his lawyer as it was not convenient for his lawyer to attend the hearing. It was further submitted that son of opponent No.1 had also submitted his adjournment application of his lawyer. Despite the fact that both the lawyers had applied for adjournment the Development Commissioner instead of adjourning the matter dismissed the revision application by his order dated 31.12.88.

2. Mr. Jitendra M. Patel, ld. advocate appearing for the petitioner submits that the petitioner has a good case on merits and as a matter of fact the permission was granted to the Gram Panchayat and in earlier round the petitioner succeeded in appeal, however in second round after the District Panchayat decided the appeal against the petitioner, being aggrieved by the said report the revision was filed before the Development Commissioner by the petitioner. Since the Development Commissioner has not decided the revision application on merits Mr. Patel has submitted that if the matter is remanded to the Development Commissioner with a direction to decide it as expeditiously as possible, the interests of justice would be met with.

3. Mr. BS Patel, ld. advocate appearing for the respondent has submitted that since the order passed by the District Panchayat is confirmed by the Development Commissioner by rejecting the said revision, there is no need to remand the matter after the expiry of the period of more than 15 years. Nobody appears on behalf of the respondent No.1 who is the main contesting party in this petition.

4. After having heard the ld. advocate appearing for the respondent authorities and after having gone

through the papers and documents placed before this Court, I am of the view that the Addl. Development Commissioner ought to have passed the order on merits once the request for adjournment made by both the parties was not accepted. Since the impugned order is not a speaking order and it does not contain any reason on merits, I quash and set aside the order dated 31.12.1998 and remand the matter to the Development Commisisoner for deciding the revision afresh after giving opportunities to both the parties. The Development Commissioner is further directed to decide the revision within the period of three months from the date of receipt of the certified copy of this order or from the date of receipt of the writ from this Court whichever is earlier. Interim relief granted by this Court shall continue till the Development Commissioner decides the revision afresh within the aforesaid period.

5. With the above directions, the present petition is accordingly disposed of. Rule is made absolute to the above extent with no order as to costs.

rmr. [K.A. Puj, J.]