

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 5787 of 1987****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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NAGJI MAKAN & 2 - Petitioner(s)

Versus

JESING NAGAR & 4 - Respondent(s)

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Appearance :

UNSERVED-EXPIRED (N) for Petitioner(s) : 1 - 2. NOTICE SERVED for
Petitioner(s) : 3,
MR SH SANJANWALA for Respondent(s) : 1 - 2.
NOTICE SERVED for Respondent(s) : 3 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 31/08/2005

ORAL JUDGMENT

In this petition under Article 227 of the Constitution of India, the petitioners have challenged the legality and validity of the Judgment and Order passed by the Gujarat Revenue Tribunal dated 2.7.1985 in Revision Application No. TEN.BS

98/1982 in dismissing the said Revision Application confirming the orders passed by the Deputy Collector (Land Reforms), Bharuch in Tenancy Appeal No. 41/1981 as well as the order passed by the Mamlatdar & ALT, Dharampur, dated 6.3.1981.

2. It appears from the record, that on an application submitted by the respondents No. 1 and 2, the Mamlatdar & ALT, Dharampur by order dated 6.3.1981 declaring the same to be the tenants against which the petitioners No. 1 and 2 preferred an appeal before the Deputy Collector (Land Reforms) which came to be dismissed against which Revision Application was filed by the petitioners No. 1 and 2 before the Gujarat Revenue Tribunal which came to be dismissed by the Tribunal by judgment and order dated 2.7.1985.

3. It appears from the record of the case that the petitioners No. 1 and 2 have expired during the pendency of the present Special Civil Application and their heirs are not brought on record. Hence, so far as petitioners No. 1 and 2 are concerned, the present proceedings are abated.

4. So far as petitioner No.3 is concerned, Shri Sanjanwala, learned advocate appearing on behalf of petitioners No. 1 and 2 has submitted that in view of the fact that the petitioner No.3 had never challenged the order passed by the Mamlatdar and ALT,

Dharampur, it is not open for the petitioner No.3 now to challenge the aforesaid orders as no Revision Application was filed by petitioner No.3 before the Gujarat Revenue Tribunal. What Shri Sanjanwala wants to submit, in other words, is that in view of the fact that the petitioner No.3 had never challenged the order passed by the Deputy Mamlatdar and ALT, Dharampur and even she had not filed Revision Application and as the revision application which was filed at the instance of the petitioners No. 1 and 2 came to be dismissed, the petitioner No.3 could not have challenged the order passed in revision application before this Court. Under the circumstances, the present Special Civil Application insofar as it relates to petitioner No.3 is not maintainable and the same is dismissed. Rule is discharged. Ad-interim relief stands vacated.

[M.R. Shah, J.]

RM.R.