

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 838 of 1996**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE JAYANT PATEL**

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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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**SHANAJI PUNJAJI BARIA - Petitioner(s)**

**Versus**

**SHANABHAI (SHANTABHAI) FULABHAI PATEL - Respondent(s)**

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**Appearance :**

MR AJ PATEL for Petitioner(s) : 1,  
NOTICE SERVED BY DS for Respondent(s) : 1,  
MR JITENDRA M PATEL for Respondent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL**

**Date : 31/01/2007**

**ORAL JUDGMENT**

1.The short facts of the case are that the  
original petitioner Shanaji Punjaji claimed the

benefit of the provisions of Section 32FF of the Bombay Tenancy and Agricultural Lands Act, for which the proceedings were initiated. There were earlier litigation and ultimately the matter was remanded and thereafter, it appears that the Mamlatdar and ALT passed the order dated 12.4.1988, whereby the petitioner was declared as deemed purchaser and the price of the land was also fixed. It appears that the matter was carried in appeal before the Dy. Collector (Land Reforms) being Tenancy Appeal No.181 of 1988. The said appeal came to be partly allowed and the matter was remanded to the Mamlatdar as per the order dated 25<sup>th</sup> October, 1988. The petitioner carried the matter before the Tribunal in revision, which ultimately has been partly allowed by the Tribunal as per the decision dated 28.11.1995 and the matter was further remanded to the Mamlatdar for reconsideration. It is under these circumstances, the present petition.

2.I have heard Mr.A.J.Patel, learned Counsel appearing for the petitioner and Mr.J.M.Patel,

learned Counsel for the respondent.

3. Upon hearing the learned Counsel appearing for both the sides and the perusal of the order passed by the Tribunal shows that up to paragraph No.3, the Tribunal has recorded the submissions made by both the sides and the reasonings are recorded by the Tribunal at paragraph 4, in which it is only stated that the revision deserves to be partly allowed and in view of the principles of res judicata, the operative portion of the order is passed.

4. In my view, such cannot be said to be the reasonings, which may be required to be recorded by the Tribunal for the exercise of the power as quasi judicial authority. As such the order can be said as a non-speaking order for want of proper recording of the reasons. It hardly deserves to be recorded that it may not be necessary for the Tribunal to deal with each and every contention, but for supporting the operative portion if the requisite reasonings are not recorded by the Tribunal, it would deprive the higher forum from undertaking the

judicial scrutiny, apart from the aspects that the principles of natural justice, too, require the recording of the reasonings when the power is exercised by the quasi judicial authority.

5. Under the above circumstances, as sufficient reasonings are not recorded by the Tribunal even to the aspects of partly allowing the revision, the order passed by the Tribunal deserves to be quashed and set aside with the direction to the Tribunal to give opportunity of hearing to the parties and to pass order afresh in accordance with law after recording the reasons for exercise of the revisional power by the Tribunal.

6. Under the above circumstances, the impugned order passed by the Tribunal dated 28.11.1995 is quashed and set aside only on the ground that no reasonings are properly recorded by the Tribunal. It is further directed that the revision shall stand restored to the file of the Tribunal of the Tribunal and the Tribunal shall pass a fresh order after giving opportunity of hearing to the concerned parties and also after

recording the requisite reasons for passing the order. The aforesaid exercise shall be completed as early as possible, preferably within a period of six months from the date of receipt of the order of this Court. It is clarified that the rights and contentions of both the sides shall remain open before the Tribunal in the proceedings of the revision.

7. The petition is partly allowed to the aforesaid extent. Rule made partly absolute accordingly. Considering the facts and circumstances, there shall be no order as to costs.

31.1.2007

**(Jayant Patel, J.)**

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