

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 6454 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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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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DAMJI DAMAN GHODIYA & OTHERS
Versus
STATE OF GUJARAT & OTHERS

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Appearance :

MR BP MUNSHI for Petitioners.

MR DIPEN DESAI, ASST. GOVERNMENT PLEADER for Respondents : 1, 3,

MR APURVA KAPADIA, for Respondent : 2,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 30/04/2007

ORAL JUDGMENT

1. Shri B.P. Munshi for Petitioners. Shri Dipen Desai for Respondents No. 1 and 3. Shri Apurva Kadadia for Respondent No.3.

2. The present petition appears to have been filed due to an apprehensive mind that respondent No.2 is likely to demolish the constructions raised by the petitioners without providing any opportunity of hearing to the petitioners.

3. The facts in nutshell are that on 15th August 1996, notice to show cause was issued to the petitioners. On 19th August 1996, the petitioners filed their reply. Before any final order could be passed on the said notice, the petitioners rushed to this Court and prayed for interim relief. The interim relief was accordingly granted and the matter is pending since 1996.\

4. In almost similar situation between some of the petitioners and the same respondents, i.e. Special Civil Application No. No. 6468 of 1996 – Parsottambhai G Patel & Others v/s. Jamnagar Area Development Authority, on 28.03.2007, the Court has granted time to said petitioners to file their reply before the authorities, with a further direction that if the reply is filed by them within the period fixed by this Court, then the petitioners would be heard by the authorities and thereafter the authorities shall pass a final order.

5. In my opinion, at the instance of the petitioners, no interference is called for at this stage because the

matter is still pending consideration before the authority which had issued a notice to show cause to the petitioners. The petition is disposed of with a direction that the petitioners shall appear before the concerned officer on 25th May 2007 either on the said date or within the period extended by the said authority. The petitioners, if advised, may file their additional reply and additional evidence. The concerned officer shall fix the case for hearing and shall decide the matter after hearing the petitioners, by a speaking order in accordance with law. In case the petitioners do not appear before the said authority or the officer on 25th May 2007, then the authority would be free to proceed further in the matter and pass ex parte orders.

6. A copy of this order be sent from this Court to the concerned officer so that he may know as to what is he required to do.

7. Rule is discharged. Interim Relief stands vacated. No order as to costs.

[R.S.GARG, J.]

mathew