

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5240 of 2008

For Approval and Signature:

HONOURABLE MR.JUSTICE MD 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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HINABEN RATABHAI VADHER & 1 - Petitioner(s)

Versus

DEPUTY COLLECTOR & 2 - Respondent(s)

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Appearance :

MR RC KAKKAD for Petitioner(s) : 1 - 2.

Mr Umang H Oza, Asstt.GOVERNMENT PLEADER for Respondent(s) :

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 30/04/2008

ORAL JUDGMENT

Rule. Learned AGP waives service of notice of
Rule for the respondents.

1. By way of this petition, the present
petitioners have challenged the impugned order passed
by Dy.Collector, Stamp Duty Valuation Department, Rajkot,

dated 23.1.2008.

Heard the learned advocate for the petitioners and the learned AGP for the respondents.

2. It is submitted by the learned advocate for the petitioners that without giving any details regarding determination of market value, in printed form, order was passed by the Dy. Collector, Stamp Duty Valuation, Rajkot in a casual manner. It is submitted by him that after taking into consideration certain principles regarding determining the market value of the land, he has passed the impugned order on the basis of which he has valued the property in question at an excessively exorbitant rate and therefore, deficit Stamp Duty of Rs.36,950/- was required to be paid to the authorities. It is submitted by him that the respondent authority has not considered the fact that the petitioner has purchased the property in question by paying the market value which was prevailing at the relevant time. It is also submitted by the learned advocate that the application seeking permission to file appeal by the petitioners was rejected on the ground that the appeal has to be filed within 90 days from the date of the order passed by the Deputy Collector and hence the application is time barred. Therefore, it is prayed that the decision of the respondent authority is required to be quashed and set aside.

3. In support of his submission, the Learned advocate has placed reliance on the following decisions of this court:

- (1) 2003 (1) GLR 454 vol.44 (Pradhyamanbhai
Mohanlal Patel v. State of Gujarat
- (2) 2006 (3) GLR 2252 (Mayurkumar J Patel v.
Dy.Collector, Stamp Duty Valuation Department,
Rajkot)

In the above decisions, it is held by this court that without giving any reasons and without applying mind towards any of the defences raised by the petitioner therein, in printed format the impugned order has been passed wherein some gaps have been filled in and one or two sentences have been added. It is also held by this court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the order in question was quashed and set aside by the court in the aforesaid decision.

4. Considering the facts and circumstances of the case, it is apparent that the impugned order is in printed form and only some gaps have been filled up by the authorities without giving any cogent and convincing reasons. This clearly shows total non-application of mind on the part of the respondent- Authorities. Under these circumstances, the impugned order is required to be quashed and set aside.

5. In the result, the petition is allowed. The impugned orders dated 13.3.2003 and 23.1.2008 dated 13.3.2003 passed by the respondent No.1 are quashed and set aside. Consequently, the matter is remanded to

respondent No.1 for taking fresh decision and for passing a speaking order as per the Act, after giving an opportunity of being heard to the petitioner. Respondent No. 1 is further directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of this order.

Rule is made absolute to the aforesaid extent.
Direct service is permitted. No order as to costs.

[M.D. SHAH,

J.]

msh