

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 7584 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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PRAKASH CHIMANLAL RAVANI - Petitioner(s)**Versus****STATE OF GUJARAT & 1 - Respondent(s)**

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Appearance :

MR DEEPAK M SHAH for Petitioner(s) : 1, MR RAJAN D SHAH for
Petitioner(s) : 1,
MR UH OZA ASST. GOVERNMENT PLEADER for Respondent.

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CORAM : HONOURABLE MR.JUSTICE MD SHAH**Date : 30/06/2008****ORAL JUDGMENT**

RULE. Mr. Oza, learned AGP waives the
service of rule on behalf of respondents.

1.0 By way of this petition, the petitioner has challenged the order passed by respondent No.2 dated 26.12.2001.

2.0 Heard learned Advocate for the petitioner and the learned AGP for the respondents.

3.0 It is submitted by the learned Advocate for the petitioner that the impugned order passed by respondent No.2 is a cyclostyled type and non speaking order which reveals total non application of mind and that unreasonably excessive market value has been fixed for the disputed property by the respondent Authority. According to the learned Advocate, no reasons have been assigned by the respondent-Authority for enhancement in the market value of the property than what is referred to in the Sale-Deed. It has also been contended by the learned Advocate that no opportunity of hearing was afforded to the petitioner before passing the impugned order. It has also been contended that

the relevant guidelines have also not been followed by the respondent-Authority, and therefore, the decision taken by the respondent-Authority for arriving at higher market value is absolutely arbitrary in nature. It is finally contended that the respondent-Authority has fixed the valuation of the property ignoring the Bombay Stamp (Determination of Market Value of Property) Rules, 1984 as also the guidelines provided by the Bombay Stamp Act of 1958, and therefore, the respondent Authority can fix the valuation of the property using different yardsticks which would tantamount to discrimination. It is submitted by the learned Advocate that in a casual manner the respondent-Authority has fixed the market value of the property in question to the tune of Rs.4,06,632/-, and therefore, deficit stamp duty of Rs.40,670/- and fine of Rs.750/- was required to be paid to the authorities. It is submitted by the learned Advocate that the respondent-Authority has not considered the fact that the petitioner has purchased the property in question

by paying Rs.1,90,000/- at a market value and the respondent-Authority has also not considered the market value was as per 'Jantri' decided by the State. Therefore, it is prayed that the decision of the respondent- Authorities are required to be quashed and set aside.

4.0 In support of his submission, the learned Advocate has placed reliance on - (i) (2006) 12 GHJ 533 (Vinaybhai P. Patel Vs. State of Gujarat), (ii) (2006) 12 GHJ 646 (Manubhai Vaghijibhai Dabhi Vs. State of Gujarat and Anr.), (iii) 2006 (12) GHJ 538 (A.P.M.C., Patan Vs. State of Gujarat and Anr.) and (iv) 2006 (2) GLR 1735 (New Kalindi Karnavati Co.Op. Housing Society Ltd. Vs. State of Gujarat and Ors.).

5.0 As can be seen from the aforesaid authorities, this Court has time and again rendered decisions for quashing and setting aside the cyclostyled type order and non speaking order by holding that it is the duty vested in the

respondent authorities to justify its say for higher market value for the land in question. In the instance case, it is clear that the impugned order does not even recite the basis or calculation for arriving at the market value, and therefore, the impugned order cannot be sustained in the eye of law. Reference in this connection may also be had to the decision rendered in the case of Bal Nalkantha Khedoor Mandal Vs. State of Gujarat decided on 26th July, 1999 in Special Civil Application No.1731 of 1999 (Coram: Hon'ble the Chief Justice Mr. K.G. Balkrishnan and Hon'ble Mr. Justice S.D. Dave).

6.0 Having considered the aforesaid authorities and for the reasons as discussed above, in my considered opinion, the impugned order is passed in breach of the provisions of the Act, 1958 and the Rules, 1984 as the same is thoroughly non speaking order and no reasons have been assigned. In that view of the matter, the petition is allowed. The impugned order passed

by respondent No.2 dated 26.12.2001 is quashed and set aside. The matter is remanded to respondent No.2 for taking fresh decision and for passing a speaking order as per the Act, 1958 read with the Rules, 1984, after giving an opportunity of hearing to the petitioner. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.D. Shah,J.)

Umesh/