

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 363 of 2002

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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PUSHPABEN DHIRUBHAI PATEL - Applicant

Versus

NARENDRAKUMAR DHIRUBHAI DESAI & 5 - Opponents

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Appearance :

MR ZUBIN F BHARDA for the Applicant.

RULE SERVED for Opponent Nos.1, 3 - 6.

MR DAKSHESH MEHTA for Opponent No.2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 30/03/2012

ORAL JUDGMENT

1. The present Civil Revision Application u/s.115 of the Code of Civil Procedure has been preferred by the petitioner herein – original applicant to quash and set aside the impugned order dated 11/01/2001 passed by learned

Deputy Collector, Navsari in Mamlatdar Courts' Act/ Revision Application No.15 of 1998, by which, learned Appellate Court has allowed the said appeal preferred by the respondents herein and has quashed and set aside the order passed by Mamlatdar, Jalalpor in Mamlatdar Courts' Act/Case No.6 of 1996.

2. Today when the present Civil Revision Application is taken up for final hearing, there is a broad consensus between the learned advocates appearing on behalf of the respective parties that without prejudice to the rights and contentions of the respective parties, impugned order dated 11/01/2001 passed by learned Deputy Collector, Navsari in Mamlatdar Courts' Act/Revision Application No.15 of 1998 be quashed and set aside and the matter be remanded to the Deputy Collector, Navsari for deciding the same afresh in accordance with law and on merits, after considering the objections raised by the respective parties and if required after making spot inspection of the disputed road in question and have spot inspection in presence of the respective parties.

3. In view of the above and without further entering into the merits of the case and without expressing anything in favour of either of the parties, the impugned order dated 11/01/2001 passed by learned Deputy Collector, Navsari in Mamlatdar Courts' Act/ Revision Application No.15 of 1998 is hereby quashed and set aside and the matter is remanded to the Deputy Collector, Navsari to decide and dispose of the same afresh in accordance with law and on merits and after giving an opportunity to all concerned and after considering the objections raised by the respective parties. If required, it

will be open for the Deputy Collector, Navsari and even this Court is of the opinion that it will be in the fitness of things, Deputy Collector, Navsari shall have inspection of the disputed road in question and have spot inspection in presence of the respective parties so that he can have an idea with respect to right of way claimed by the petitioner and whether any other suitable alternative way is available to the petitioner or not.

In the facts and circumstances of the case and as the matter is very old, the Deputy Collector, Navsari is hereby directed to finally decide and dispose of Mamlatdar Courts' Act/ Revision Application No.15 of 1998 at the earliest but not later than four months from the date of receipt of the present order. Rule is made absolute to the aforesaid extent. No costs.

[M.R.SHAH,J]

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