

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 1172 of 2011
In
SPECIAL CIVIL APPLICATION No. 6080 of 2010
With
CIVIL APPLICATION No. 10517 of 2011
In LETTERS PATENT APPEAL No. 1172 of 2011

For Approval and Signature:

HONOURABLE MR.JUSTICE V. M. SAHAI

HONOURABLE MR.JUSTICE A.J. DESAI

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ? **YES**

2 To be referred to the Reporter or not ? **NO**

3 Whether their Lordships wish to see the fair copy of
the judgment ? **NO**

Whether this case involves a substantial question of
4 law as to the interpretation of the constitution of
India, 1950 or any order made thereunder ? **NO**

5 Whether it is to be circulated to the civil judge ? **NO**

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AMBALAL CHUNILAL RAVAL & 1 - Appellants

Versus

STATE OF GUJARAT & 4 - Respondents

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Appearance :

MR AJ SHASTRI for Appellants.

MR NJ SHAH, AGP for Respondent(s) : 1 - 2.

None for Respondent(s) : 3 - 4.

MR MANOJ N POPAT for Respondent(s) : 5,

MR DIGANT M POPAT for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE V. M. SAHAI

and

HONOURABLE MR.JUSTICE A.J. DESAI

Date : 29/02/2012

ORAL JUDGMENT (Per : HONOURABLE MR.JUSTICE A.J. DESAI)

1. By way of present appeal under Clause 15 of Letters Patent, the appellants – original petitioners have challenged the judgment dated 22.06.2011 passed in Special Civil Application No.6080 of 2010.

2. The Special Civil Application filed by the present appellants i.e. Special Civil Application No.6080 of 2010 was heard with Special Civil Application No.1837 of 2011 filed by other petitioners who were resident of another Village of Dakor Taluka.

3. The brief facts leading to the present case are as under:

3.1 That the appellants – petitioners are residents of Dakor Taluka who had challenged the order dated 6.7.2009 passed by Collector of Kheda District before the revisional authority by filing a Revision Application No.25 of 2009. The said revision application was dismissed by order dated 3.4.2010 confirming of the order passed by the Collector. Both the orders, passed by the Collector as well as revisional authority, were challenged by way of the above-referred writ petition which was dismissed by the learned Single Judge. The case of the appellants is that the respondent No.5 was running an

agency for supplying LPG gas and was required to construct godown for the purpose of storing gas cylinders. He had obtained necessary permissions and No Objection Certificates from the District Magistrate, Kheda as well as the Joint Chief Controller of Explosives, West Circle, Navi Mumbai. The respondent No.5 has also obtained permission for non-agricultural use of the land, subject to various conditions, including the condition to take necessary precautionary measures in case of fire or accident. It is pertinent to note that the objections against the grant of N.A. permission is subject matter of another revision application wherein the present appellants are not party in the said revision proceedings. The main arguments advanced before us by the learned advocate appearing for the appellants is that the residences of the appellants are situated within 200 mtrs. from the land upon which the permission is granted in favour of respondent No.5 to store LPG gas cylinders which is against the provisions of law. The learned advocate has also relied upon the orders passed by the Collector in past, refusing the permission for storing the LPG gas cylinders at the disputed land which belongs to the respondent No.5.

3.2 By way of filing affidavit-in-reply, the respondent No.5 opposed the prayers made by the appellants – petitioners and has produced a certificate issued by Town Planning and Valuation department of Nadiad Branch dated 15.7.2005 by which it has been certified that the disputed land is situated within industrial zone. It was argued by learned advocate appearing for the respondent No.5 that he had obtained necessary permissions from the authorities for storing LPG gas cylinders and only thereafter the Collector had issued No Objection Certificate on certain conditions. He has further argued that the appellants – petitioners have no locus in the matter since they are not directly or indirectly affected, with the permissions granted by competent authorities after verifying the necessary requirements to store the LPG gas cylinders at a particular place. The learned advocate appearing for the respondent No.5 has also supported the order passed by the revisional authority, and submitted that after hearing the appellants – petitioners, the revisional authority by detailed order confirmed the order passed by the Collector by which No Objection Certificate was issued to the respondent No.5.

4. We have heard learned advocates appearing for the parties.

We have gone through the orders passed by the Collector and the Revisional Authority and we have also perused the judgment passed by the learned Single Judge.

We are of the opinion that the learned advocate appearing for the appellants has failed in establishing that if a residential premises is situated at a particular place, permission to store LPG gas cylinders cannot be granted within a periphery of 200 mtrs. by showing any legal provisions whatsoever. The learned advocate for the appellants could not show that by which rules or regulations Godowns for storage of LPG gas cylinders cannot be constructed and such permission cannot be granted by the authority. Since the disputed property which is situated within industrial zone, in our opinion, the authorities below have rightly granted permission to store LPG gas cylinders.

5. Though the appellants – petitioners are residents of Dakor Taluka, and if they thought it fit to challenge the decisions of the authorities for permitting storage of LPG gas cylinders, they can take recourse of filing appropriate proceedings.

6. In view of what is stated hereinabove, we are in full agreement with the reasons assigned by the learned Single Judge while dismissing the above-referred petition. Hence the appeal is dismissed with no order as to costs.

7. In view of dismissal of appeal, Civil Application No.10517 of 2011 also stands dismissed.

(V.M. SAHAI, J.)

(A.J.DESAI, J.)

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