

(2023) 05 GUJ CK 0083

In the Gujarat High Court

Case No : R/Special Civil Application No. 9206 Of 2023

Anjumane Mohammadi Jamat Through Its Administrator/
Secretary Asgarali Ahmedali Rayli

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 23-05-2023

Acts Referred:

Constitution Of India, 1950 — Article 226
Gujarat Municipalities Act 1963 — Section 185

Citation : (2023) 05 GUJ CK 0083

Hon'ble Judges : S.V. Pinto, J

Bench : Single Bench

Advocate : Kruti M Shah, Sahil Trivedi

Final Decision : Allowed

Judgement

S.V. Pinto, J

1. The petitioner has filed the present petition under Article 226 of the Constitution of India praying for the following main reliefs.

(B) Your Lordships may be pleased to issue a writ of mandamus and/or any other appropriate writ, order or direction directing and restraining the Respondents from in any manner demolishing and/or attempting to demolish the construction over plot no.19 and 20 situated in F.P.No.111 of T.P.Scheme No.1 Dahod, without following due process of law.

(C) Pending admission, hearing and final disposal of this petition, this Honourable Court may be pleased to direct the respondents to maintain status quo and to restrain the Respondents from in any manner demolishing and / or attempting to demolish the construction over plot no.19 and 20 situated in F.P.No.111 of T.P.Scheme No.1 Dahod, without following due process of law.

2. Heard Ms.Kruti Shah, learned advocate appearing for the petitioner, Mr.Sahil Trivedi, learned AGP for the respondent authorities and Mr.Vimal Purohit, learned

advocate for the respondent No.5 – Dahod Nagarpalika.

3. Mr.Vimal Purohit, learned advocate is permitted to file his appearance for respondent No.5 – Dahod Nagarpalika during the course of the day.

4. Ms.Shah, learned advocate appearing for the petitioner submitted that the property of the petitioner has been demarcated with red colour arrow and demolition drive on large scale has been undertaken by the respondents in Dahod and no notice has been served regarding any illegal construction on their property. Ms.Shah further submitted that the petitioner is the lawful owner of the property in question and the petitioner apprehends that without following the provisions of section 185 of the Gujarat Municipalities Act 1963, their property may be demolished.

5. Mr.Sahil Trivedi, learned AGP, upon instructions from Smt.N.B.Rajput, Prant Officer, Dahod, submitted that the respondents will follow the due process of law and will serve the notice as required under the law in case of any demolition is required to be undertaken.

6. In view of the above statement made by Mr.Sahil Trivedi, learned AGP, the present petition stands disposed of. The respondent authorities shall follow the due process of law and shall also give an opportunity of being heard to the petitioner before taking any coercive action of demolition and the petitioner be allowed to put forward their case and thereafter, the respondent No.5 shall pass reasoned and speaking order. It is clarified that this Court has not gone into the merits of the case.

Direct service is permitted.