

(2010) 07 GUJ CK 0037

In the Gujarat High Court

Case No : Special Civil Application No. 4620 of 2010

Arjun Odedra

APPELLANT

Vs

Managing Director

RESPONDENT

Date of Decision : 28-07-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 07 GUJ CK 0037

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Masud I. Patel, for the Appellant; Rituraj M. Meena, for the Respondent

Final Decision : Dismissed

Judgement

M.R. Shah, J.—By way of this petition under Article 226 of the Constitution of India, petitioner who is holding industrial plot in G.I.D.C. Engineering Estate, Gandhinagar has prayed for an appropriate writ, order or direction directing the respondent to allot one plot to the petitioner for residential purpose.

2. It is the case on behalf of the petitioner that as petitioner is holding two plots in G.I.D.C. Engineering Estate of Gandhinagar in Sector 28, which are used for industrial engineering purpose. As per the policy of the G.I.D.C., he is entitled to one plot for residential purpose. He has submitted that infact under the guise that 20% quota for allotment of residential plot to the engineering units is already exhausted, even petitioner has not been issued the form. It is the case on behalf of the petitioner that there is no such policy of 20% ceiling. It is, therefore, submitted that the case of the petitioner be considered alongwith other applications which are pending since 2005.

3. Affidavit-in-reply is filed on behalf of respondent. It is categorically stated that as such there is a scheme/policy which is consistently followed by the G.I.D.C. That 20% of the residential plots are reserved for the engineering units and 20%

are reserved for employees and there are other reservations also. It is submitted that last allotment of residential plot was made in the year 2005 and thereafter, the G.I.D.C. has stopped allotting residential plots to the owners of the engineering units as their quota is exhausted. It is further submitted that even otherwise petitioner is not entitled to the residential plot in as much as wife of the petitioner, who is also Joint Director in the company of the petitioner i.e. Biocare Remedies Private Limited, was infact allotted one residential plot considering the policy prevailing at that time and wife of the petitioner has sold the said plot by registered sale deed executed in the year 2009. Therefore, it is submitted that infact as one plot was already allotted, petitioner is not entitled to second plot. It is further submitted that even otherwise considering the aforesaid conduct, it appears that petitioner does not want to use the residential plot which may be allotted to him for residential purpose as the plot which was already allotted to his wife, is already sold. It is submitted that plot is to be allotted for their own use and residential purpose. Therefore, it is submitted that even otherwise petitioner is not entitled to residential plot.

4. Having heard learned advocates appearing on behalf of respective parties, it appears that as such petitioner is Managing Director of one Biocare Remedies Private Limited who has industrial engineering plots and for the purpose of allotment they are clubbed together and the Joint Director of the said company i.e. wife of the petitioner was infact allotted one residential plot as per the policy of the G.I.D.C.. However, wife of the petitioner has sold the said residential plot by executing registered sale deed in the year 2009. As per the policy, one of the Director and/or partner is entitled to residential plot and the wife of the petitioner being Joint Director of the company of the petitioner was allotted residential plot which is sold. Now again, the petitioner wants a residential plot. It is to be noted that the residential plot is required to be given for their own residential use and purpose and not for the purpose of sale. As stated hereinabove, the wife of the petitioner who was allotted residential plot as Joint Director of the Company has sold the plot and not used the plot for their own residential purpose. It is submitted that as wife of the petitioner is staying at Ahmedabad and the residential plot was at Gandhinagar, she has sold it. It is to be noted that petitioner is staying with his wife at Ahmedabad. Therefore, there are all possibilities that the petitioner will not use the residential plot. As stated hereinabove, the plot which was already allotted to the wife of the petitioner is sold by executing sale deed in the year 2009. Under the circumstances, prayer of the petitioner to direct the G.I.D.C. to allot residential plot to the petitioner, cannot be granted.

5. Even otherwise, considering the affidavit-in-reply, it appears that there is some quota and the residential plots to be allotted to the owners of the engineering units is exhausted. It is true that no such policy/scheme is forthcoming. However, as stated in the affidavit-in-reply, it is consistent practice and not only that, infact the G.I.D.C. has stopped allotting residential plots to the owners of the engineering units since year 2005 and no other plot holders having

engineering units are allotted any residential plots thereafter.

6. In view of the above and for the reasons stated above, there is no substance in the petition which deserves to be dismissed and is, accordingly, dismissed. Notice is discharged.