

(2020) 08 GUJ CK 0205

In the Gujarat High Court

Case No : R/Special Civil Application No. 3473 Of 2020

Chandrakant Muljibhai Sutariya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 17-08-2020

Acts Referred:

Constitution Of India, 1950 — Article 14, 226

Citation : (2020) 08 GUJ CK 0205

Hon'ble Judges : A.G.Uraizee, J

Bench : Single Bench

Advocate : Bhavesh Babariya, Bharatkumar K Solanki, Vrunda Shah

Judgement

A.G.Uraizee, J

1. Rule returnable forthwith. Ms. Vrunda Shah, learned AGP waives service of notice of rule for the respondents. With the consent of the learned

advocates appearing for the respective parties, the matter is taken up for final hearing today.

2. By way of the present petition under Articles 14 and 226 of the Constitution of India, following prayers have been made:

â??(b) Issue a writ of certiorari or any other appropriate writ, order, or direction quashing and setting aside impugned order/communication dated

22.11.2019 passed by respondent No.3 Authority and thereby rejecting the Application dated 21.10.2019 of present petitioner for sale/ transfer of the plot in question.

(c) Issue a writ of mandamus or any other appropriate writ, order or direction, directing respondent No.3 Authority to reconsider application preferred

by present petitioner and pass appropriate order with respect to Application of

present petitioner in view of Resolution dated 25.05.2016 and

18.10.2017 and thereby grant appropriate permission to present petitioner for sell of the residential plot with super structure. â??

3. Heard Mr. Bhavesh Babariya, learned advocate for Mr. Bharat Solanki, learned advocate for the petitioner and Ms. Vrunda Shah, learned AGP for

the respondents.

4. Mr. Babariya, learned advocate for the petitioner submits that the Coordinate Bench of this Court has passed an order on 11.08.2020 in Special

Civil Application No.6746 of 2020, wherein relying upon the order dated 07.01.2019 passed in Special Civil Application No.21165 of 2018, following order is passed.

â??[1.0] RULE. Mr. Amit Barot, learned AGP waives service of notice of Rule on behalf of the respondent â?" State of Gujarat. With the consent

of learned advocates appearing for respective parties, present petition is taken up for final hearing today.

[2.0] By way of the present petition under Articles 14 and 226 of the Constitution of India, following prayers have been made.

â??(a) Admit and allow present petition;

(b) Issue a writ of certiorari or any other appropriate writ, order or direction quashing and setting aside impugned order / communication dated

06.11.2018 passed by respondent No.1 Authority and thereby rejecting the Application dated 17.10.2018 of present petitioner for sale / transfer of the plot in question;

(c) Issue a writ of mandamus or any other appropriate writ, order or direction directing respondent No.1 Authority to reconsider application preferred

by present petitioner and pass appropriate order with respect to Application of present petitioner in view of Resolution dated 25.05.2016 and

18.10.2017 and thereby grant appropriate permission to present petitioner for sell of his residential plot with super structure;â??

[3.0] Mr. Tattvam Patel, learned advocate appearing on behalf of the petitioner has brought to the notice of this Court several orders passed in similar

type of cases, which are annexed to the petition.

[4.0] Having heard Mr. Tattvam Patel, learned advocate appearing for the petitioner and Mr. Amit Barot, learned AGP appearing on behalf of the

respondent No.1, I am of the opinion that a similar order can be passed in the present petition also.

[5.0] Impugned order / communication dated 06.11.2018 passed by respondent No.1 Authority rejecting the Application dated 17.10.2018 of present

petitioner for sale / transfer of the plot in question is hereby quashed and set aside. The respondent Authority is hereby directed to consider the

application preferred by petitioner for transfer of the plot in accordance with law as expeditiously as possible and preferably within a period of three

months from the date of receipt of the present order. It is made clear that this Court has not examined the merits of the case. Rule is made absolute to

the aforesaid extent. Direct service is permitted.â??

3.1. Having heard Mr.Babariya, learned advocate appearing for the petitioner and Ms.Vyas, learned AGP appearing on behalf of the respondent

No.1, I am of the opinion that a similar order can be passed in the present petition also.

3.2. Impugned order / communication dated 27.11.2017 passed by respondent authority rejecting the application dated 21.11.2017 of present petitioner

for sale / transfer of the plot in question is hereby quashed and set aside.

3.3. The respondent Authority is hereby directed to consider the application preferred by petitioner for transfer of the plot in accordance with law as

expeditiously as possible and preferably within a period of three months from the date of receipt of the present order. It is made clear that this Court

has not examined the merits of the case. Rule is made absolute to the aforesaid extent. Direct service is permitted. In addition thereto, the Registry to

communicate this order through Email and / or Fax.â??

5. Mr. Babariya, learned advocate for the petitioner and Ms. Vrunda Shah, learned AGP for the respondents jointly submit that similar order may be passed in this petition.

6. Having heard the learned advocates for the parties and considering the fact that in identical petition, the impugned order / communication is set

aside and the Authorities are directed to consider the application tendered by the petitioner in transfer of the plots in accordance with law

expeditiously, I also deem it expedient to pass following order:

a. Having heard Mr.Babariya, learned advocate appearing for the petitioner and Ms. Shah, learned AGP appearing on behalf of the respondent No.1,

I am of the opinion that a similar order can be passed in the present petition also.

b. Impugned order / communication dated 22.11.2019 passed by respondent authority rejecting the application dated 21.10.2019 of present petitioner

for sale / transfer of the plot in question is hereby quashed and set aside.

c. The respondent Authority is hereby directed to consider the application preferred by petitioner for transfer of the plot in accordance with law as

expeditiously as possible and preferably within a period of three months from the date of receipt of the present order.

It is made clear that this Court has not examined the merits of the case. Rule is made absolute to the aforesaid extent. Direct service is permitted. In

addition thereto, the Registry to communicate this order through Email and / or Fax.