

(2020) 08 GUJ CK 0070
In the Gujarat High Court

Case No : R/Special Civil Application No. 8400 Of 2020

Chimanlal Channalal Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 06-08-2020

Acts Referred:

Constitution Of India, 1950 — Article 14, 226

Citation : (2020) 08 GUJ CK 0070

Hon'ble Judges : Biren Vaishnav, J

Bench : Single Bench

Advocate : Jayant P Bhatt, Jeet J Bhatt, Adityasinh Jadeja

Final Decision : Disposed Of

Judgement

Biren Vaishnav, J

1. Heard Mr.Jayant Bhatt, learned advocate with Mr. Jeet Bhatt, learned advocate for the petitioner.

2.The present petition has been filed by the petitioner â?" subsequent purchaser with the prayer that the respondents be directed to consider the name

of the petitioner on the revenue records of the residential plot No. 677/1, Sector 7-B, Gandhinagar. The prayer arises in the following background of

facts:

3.Mr.Jayant Bhatt, learned advocate for the petitioner would contend that the sale was pursuant to a permission granted by the respondents and the

registered sale deed was prior to the order passed in SLP on 02.11.2012. The authorities, therefore, should consider the application and mutate the

name of the petitioner in the revenue records.

4.Mr.Adityasinh Jadeja, learned Assistant Government Pleader, would submit that

once having accepted the communication dated 08.01.2013 and not having challenged the same, it is not open for the petitioner to approach this Court seven years thereafter and reiterate the request on the basis of a fresh application made on 18.07.2019.

5. Considering the submissions of the learned advocates appearing for the respective parties and in view of the orders passed by this Court, a copy of one of the orders which is annexed is Special Civil Application No. 15755 of 2018, read as under:

â??1.This petition is filed under Article 226 of the Constitution of India with following prayers:-

â??b.Be pleased to issue writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction to quash and set aside

impugned order dated 26/07/2017 passed by the respondent no.1at Annexure-B by which genuine request of the 84 years aged petitioner to sell his

residential plot along with superstructure has been turned down;

c.Be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction directing any

commanding the respondent no.1 to implement its own Resolution dated18/10/2017 forthwith and grant permission in favor of the petitioner to see his

residential plot along with its superstructure;â??

2. The petitioner has challenged legality validity and propriety of the impugned order dated26.07.2017 passed by respondent No.1 herein by which

application dated 13.07.2017 of the petitioner to grant permission to sale his residential plot admeasuring about90.00 sq. mtr. along with its

superstructure, has been turned down on the ground that as per the order dated02.11.2012 passed by the Supreme Court in SLP No.896 of2012,

wherein it is directed that till the Suo Motu Special Civil Application No.13550 of 2000 is decided by the this Court, no further allotments or permission

to transfer the plots already allotted under the government resolution in question, would be granted without the level of the High Court. In light of the

said order dated 02.11.2012, the application of the petitioner to grant him permission for sale of Government allotted residential plot along with its

superstructure came to be rejected. Therefore, the petitioner has filed the present petition as the impugned order passed by respondent No.1 being

illegal, arbitrary, capricious and violative of Article 14 of the Constitution of India. The petitioner further seeks permission of this Court to grant

permission to transfer the said plot of the petitioner to third party as per the order dated 02.11.2012 of the Supreme Court.

3. Learned Advocate for the petitioner bring to the notice of this Court the order passed by the Supreme Court dated 02.11.2012, wherein the

Supreme Court has observed as under:-

“We, however, direct that till the High Court disposes of the Suo Motu action, no further allotments or permission to transfer the plots already

allotted under the Government Resolutions in question, would be granted without the leave of the High Court. It may be noted that according to

learned counsel appearing for the respondent, the State Government has not made any afresh allotments after the year 2000 and as a matter of

fact, the entire policy for such allotments is being re-examined.” 3.1 Learned Advocate for the petitioner submitted that in several matters, Coordinate

Benches have passed orders giving direction to the respondent authorities to reconsider the application as the same was required by the judgment of

the Apex Court. Learned Advocate drew attention of the Court to the orders passed by this Court in similar set of facts in SCA No.13967 of 2016,

SCA Nos.5234 of 2017, 20543 of 2018 and SCA NO.996 of 2019. It is submitted that pursuant to such orders, the authorities, thereafter, have

considered the case of such petitioners and have passed separate orders in each case. One of such order by the authority is today produced on record

which is dated 06.10.2018 in case of one Smt.Suman Babubhai Shah. It is observed in Clause-9 that the order of the authority is made subject to

outcome of SCA 13550 of 2000 as well as SLP No.896 of 2012.

4. Learned AGP opposes grant of the petition on the ground that in connection with one such petition, LPA is filed. However, no status is coming on

record. It is also submitted that passing of the order may lead to multiplicity of litigations.

5. Having considered rival submissions and having considered facts on record, the Court is of the view that no different view is required to be taken

from the directions issued by this Court in other matters with circumstances. 6. In view similar of the facts and aforesaid, respondent No.1 is hereby

directed to reconsider the application of the petitioner dated 13.07.2017 in

accordance with law as expeditiously as possible, after giving an opportunity of hearing to the petitioner. 7. With the above direction, the present petition stands disposed of. Direct service is permitted.

6 In accordance with the aforesaid order, the respondents are directed to consider the application of the petitioner for mutating the entry pursuant to the application made on 18.07.2019 in accordance with law, within a period of three months from the date of receipt of copy of this order. The petition is disposed of, accordingly. The Registry to communicate the order through E-mail.