
(2011) 02 GUJ CK 0096

In the Gujarat High Court

Case No : Special Civil Application No. 7201 of 2010

Jayendra Nagindas and Others

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 24-02-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 02 GUJ CK 0096

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : M.S. Anuja S. Nanavati, for Petitioners 1 to 15, for the Appellant; Satyam Y. Chhaya, for Respondents 2 to 4 and D.J. Bhatt, for Respondent 6, for the Respondent

Judgement

M.R. Shah, J.—By way of this petition under Article 226 of the Constitution of India, respective Petitioners have prayed for an appropriate writ, direction or order directing the Respondents herein to implement the Town Planning Scheme No. 23, Ahmedabad (Sabarmati) with respect to Final Plot Nos. 617, 450 and 464.

2. It is not in dispute that Final Plot No. 464 ad-measuring 206 sq. mtrs. as well as Final Plot No. 617 ad-measuring 4248 sq. mtrs. are allotted to the Petitioners under the finalized Town Planning Scheme No. 23, Ahmedabad (Sabarmati). There is dispute with respect to compensation with respect to the land bearing Final Plot No. 450. Shri Saurin Mehta, learned advocate appearing on behalf of the Petitioners has stated at the Bar under the instructions from the Petitioners that so far as the prayer of the Petitioners with respect to land bearing Final Plot No. 450 is concerned, they do not press the present petition with a liberty in their favour to initiate appropriate proceedings before appropriate forum. Accordingly, present Special Civil Application is dismissed as not pressed with above liberty, so far as Final Plot No. 450 is concerned. As and when any proceedings with respect to Final Plot No. 450 are initiated before the appropriate forum, the same may be considered in accordance with law and on merits for

which this Court has not expressed any opinion in favour of either parties.

3. So far as Final Plot Nos. 464 and 617 which are allotted to the Petitioners under the finalized Town Planning Scheme are concerned, it appears that Final Plot No. 617 is in possession of Torrent Power Limited (AEC) i.e. Respondent No. 6 herein. Shri D.J. Bhatt, learned advocate appearing on behalf of Respondent No. 6 has submitted that in fact there is no measurement done by the Corporation so far as Final Plot No. 617 is concerned. It is stated by him that as soon as the measurement is done and area of Final Plot No. 617 is demarcated, the possession of Final Plot No. 617 which is occupied by Respondent No. 6 shall be handed over to the Municipal Corporation who in turn will hand over the possession of Final Plot No. 617 to the Petitioners, within a period of three weeks from today. Shri Satyam Chhaya, learned advocate appearing on behalf of the Respondent Corporation has stated at the Bar under the instructions from Shri Sailesh Rao, Inspector, West Zone that the Surveyor of the Corporation shall remain present at the site at 11 a.m. tomorrow and let the representatives of the Petitioners as well as Respondent No. 6 Company remain present and the area of Final Plot No. 617 shall be demarcated and necessary map shall be prepared so that Respondent No. 6 can start construction of compound wall on the same so that the peaceful and vacant possession of Final Plot No. 617 can be handed over to the Petitioners herein.

4. So far as Final Plot No. 464 ad-measuring 206 sq. mtrs. Is concerned, Shri Satyam Chhaya, learned advocate appearing on behalf of the Corporation under the instructions from the aforesaid Officer has stated at the Bar that peaceful and vacant possession of Final Plot No. 464 shall be handed over to the respective Petitioners who are allotted the same under the finalized Town Planning Scheme within a period of three weeks from today.

5. In view of the above, present Special Civil Application is disposed of. Let the Surveyor of the Corporation and the Officer of the Corporation remain present at the site of Final Plot No. 617 tomorrow i.e. on 25/02/2011 at 11 a.m. and let the representative of the Petitioners and Respondent No. 6 Company remain present and let the Surveyor demarcate the boundary of Final Plot No. 617 and prepare a map, copy of which shall be furnished to the respective parties within a period of two days from today. Thereafter, Respondent No. 6 is directed to hand over the possession of Final Plot No. 617 to the Corporation within a period of three weeks from today and in turn the Corporation shall hand over the peaceful and vacant possession of Final Plot No. 617 to the respective Petitioners who are allotted the aforesaid Final Plot allotted under the finalized Town Planning Scheme.

6. In view of the aforesaid statement, Respondent Corporation is hereby directed to hand over peaceful and vacant possession of Final Plot No. 464 ad-measuring 206 sq. mtrs. to the respective Petitioners under the finalized Town Planning Scheme within a period of three weeks from today. With this, present Special Civil Application is disposed of. Rule is made absolute to the aforesaid extent. No costs.