

(2021) 12 GUJ CK 0028

In the Gujarat High Court

Case No : R/Special Civil Application No. 6773 Of 2021

Kalaji Nathaji Thakor

APPELLANT

Vs

State Of Gujarat & 2 Other(S)

RESPONDENT

Date of Decision : 07-12-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Gujarat Town Planning And Urban Development Act, 1976 — Section 70(1)

Citation : (2021) 12 GUJ CK 0028

Hon'ble Judges : Biren Vaishnav, J

Bench : Single Bench

Advocate : Maulik Nanavati, Nanavati, Meet Thakkar, Deep Vyas

Final Decision : Disposed Of

Judgement

Biren Vaishnav, J

1. Leave to add Ahmedabad Municipal Corporation as party respondent no.4.
2. NOTICE to newly added respondent no.4 is issued and the same is waived by learned advocate Mr.Deep Vyas.
3. Heard Mr.Maulik Nanavati learned advocate for the petitioner, Mr.Meet Thakkar learned AGP for respondent nos.1 and 2 and Mr.Deep Vyas learned advocate for respondent no.4
4. In this petition under Article 226 of the Constitution of India, the prayers of the petitioner read as under:

"(a) To issue a writ of mandamus or a writ, order or direction in the nature of writ of mandamus directing the Town Planning Officer of Draft Town Planning Scheme No.233 (Tragad) to correct the area of land bearing Survey No.184/3 as 1,585 square meters in the record relating to the Draft Town Planning Scheme No.233 (Tragad);

(b) To issue a writ of mandamus or a writ, order or direction in the nature of writ of mandamus directing the Town Planning Officer of Draft Town Planning Scheme No.233 (Tragad) to amend Form F so as to reflect correct area of 1,585 square meters of Survey 184/3, and suitably revise the area of Final Plot allocated to the petitioner in the draft scheme ;

(c) To pass an ex-parte ad interim order directing the Town Planning Officer to correct the area of land bearing Survey No.184/3 as 1,585 square meters in the record relating to the Draft town Planning Scheme No. 233 (Tragad) and not to proceed with finalization of the Draft Town Planning Scheme No.233 (Tragad) and not to proceed with finalization of the Draft town Planning Scheme No.233 (Tragad) pending the hearing and final disposal of the present petition;"

5. Mr.Meet Thakkar learned AGP would submit that in view of the fact that the draft scheme was floated on 26.11.2019 and which became final on 18.05.2021 and became part of the Act, the objection has gone.

6. Facts in brief are that the petitioner owned land being Survey No.184/3 of Village:Tragad, Taluka:Ghatlodiya, Ahmedabad. The total area of survey no.184 as per the revenue record is 10,623 square meters. From this area of land, 8,490 square meters of land came to be acquired by the railways. Remaining of 2133 square meters of land was reflected in village form No.7. Of the 2133 square meters, 548 square meters was included in the road. What remained with the petitioner therefore was an area admeasuring 1,585 square meters that is effected in the village form no.7. On coming into effect of Town Planning scheme for the area, the petitioner pointed out a mistake to the Town Planning Officer inasmuch as, the area of land shown by the Town Planning Officer was only 1061 square meters. The Town Planning Officer addressed a letter to the officer on Special Duty of the department of the State Government under the Urban Development and Urban Housing Department on 30.08.2016 which mentioned that the revenue records of the area of the land of the petitioner in fact showed 1585 square meters whereas measurement in the District Inspector of Land Records of Urban Development Authority mentioned 1061 square meters of land.

7. Mr.Nanavati during the course of arguments relied on the revenue records, form no.6, posting of mutation entry no.4205 dated 12.05.2017 showing the break up of the allotment of land as referred to herein above. Admittedly, this revenue entry would show the area of the ownership of the petitioner as 1585 square meters

8. Keeping these factual details in mind, as and when the petitioner makes an application for variation of scheme under Section 70(1) for variation of the Gujarat Town Planning and Urban Development Act to the Ahmedabad Municipal Corporation only to the extent of the area of the original holding of the land of the petitioner in question, the Ahmedabad Municipal Corporation while forwarding the application may consider the application forwarded by the Corporation keeping in view the facts stated herein above with regard to the

discrepancy with regard to the area of the land as claimed by the petitioner.

9. An appropriate decision shall be taken by the authority in accordance with law within a period of eight weeks from the date of receipt of copy of this order. It is clarified that this order is passed without getting into the merits of the matter.

10. The petition is disposed of in above terms.