

(2011) 02 GUJ CK 0162
In the Gujarat High Court

Case No : Special Civil Application No. 5014 of 2010

Karshanbhai Polabhai Vaja and Another	APPELLANT
Vs	
Taluka Development Officer and Others	RESPONDENT

Date of Decision : 17-02-2011

Acts Referred:

Citation : (2011) 02 GUJ CK 0162

Hon'ble Judges : K.M. Thaker, J

Bench : Single Bench

Advocate : A.R. Thakkar, for Petitioners 1, 1.2.1, 1.2.2, for the Appellant; P.V. Hathi, for Respondent 1 and M.S. Moksha Thakkar, AGP for Respondent 3, for the Respondent

Judgement

K.M. Thaker, J.—Heard Mr. Thakkar, learned advocate for the Petitioners, Mr. Hathi, learned advocate for the Respondent No. 1 and Ms. Thakkar, learned AGP, for Respondent No. 3 - Collector, Junagadh.

2. The Petitioners preferred present petition on the allegation that the recovery certificate issued by the Commissioner of Workmen's Compensation, after conclusion of the Workmen Compensation Case No. 5 of 1998, was not being executed by the Respondents. Therefore, the Petitioners prayed for direction to the concerned Respondent authorities to take steps to execute the recovery certificate, to realize the amount awarded by the Workmen's Compensation Commissioner and pay the said amount to the Petitioners - claimants.

3. Pursuant to the notices to the Respondents, it came on record that the property against which the recovery certificate was issued was transferred by the original judgment debtor and that therefore, appropriate orders to the Respondent No. 3 - Collector and other authorities were passed to reverse the entries since the property was sought to be transferred during the pendency of the proceedings.

4. Mr. Hathi, learned advocate for the Respondent No. 1 and Ms. Thakkar, learned

AGP for Respondent No. 3 - Collector, have submitted that appropriate steps to reverse the entry were taken and thereafter, auction notices for auction sale of the property in question were issued. Mr. Hathi, learned advocate for the Respondent No. 1, has placed on record a copy of the Form under Rule 129 dated 2.2.2011 as per which the auction of the property is to be held on 10.3.2011. The said facts are not in dispute.

5. Thus, what emerges from the record is that, the Respondent authorities have taken necessary and appropriate steps for execution of the recovery certificate. The property against which the recovery certificate came to be issued is now placed for auction sale to be held on 10.3.2011. Under the circumstances, the purpose for which the petition is filed i.e. for direction to execute the recovery certificate, has been achieved. Obviously, the proceedings which have come into motion, i.e. the auction sale proceedings, will reach finality on 10.3.2011 upon the sale taking place. Thereafter, when the auction purchaser deposits the amount, the Respondent authorities shall take necessary steps to make the payment of the certified amount to the Petitioner within period of 15 days, after the amount is deposited.

With the aforesaid clarification and direction, the petition is disposed of. Notice is discharged.

In case of any difficulty, the Petitioner may approach the Court by way of appropriate application.