

(2020) 01 GUJ CK 0023

In the Gujarat High Court

Case No : R/Special Civil Application No. 328 Of 2020

Pradipkumar Maneklal Mehta

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 07-01-2020

Acts Referred:

Citation : (2020) 01 GUJ CK 0023

Hon'ble Judges : Biren Vaishnav, J

Bench : Single Bench

Advocate : Dipak R Dave, Aishwarya Gupta

Final Decision : Disposed Of

Judgement

Biren Vaishnav, J

1 In this petition under Article 226 of the Constitution of India, the prayer of the petitioner reads as under:

"7(A) This Hon'ble Court may be pleased to issue a writ of mandamus and/or a writ in the nature of mandamus and/or an appropriate writ, order or direction to hold and declare that action on the part of respondent in not considering the application of the petitioner dated 25.10.2019 for selling the plot No. 374/A/2 sector 8 Gandhinagar, Gujarat along with house constructed thereon in consonance with the policy of the State Government an in accordance with law;

(B) Pending the admission, hearing and final disposal of this petition, this Hon'ble Court may be pleased to direct the respondent authority to consider the case of the petitioner for sale of plot No. 374/A/2 sector 8, Gandhinagar, Gujarat along with house constructed thereon in consonance with the policy of the State Government and in accordance with law;"

2 Looking to the prayers made in the petition, it is the case of the petitioner that the petitioner who is an allottee of a plot at Gandhinagar, on which he has constructed a dwelling unit, this is to transfer the plot, the application has been

rejected by the order impugned herein.

3 Mr.Dipak Dave, learned advocate for the petitioner, invites the attention of this Court to an order passed by this Court on 26.12.2018, by which, the Court directed the respondent authorities to reconsider the application of the petitioner. The related portion of the order reads as under:

"[4.0] I have heard learned advocates appearing for the respective parties and considering the averments made in the application, I am of the opinion that the following order would meet the end of justice.

Impugned order passed by the respondent No.1 rejecting the application of the petitioner for sale / transfer of the plot in question is hereby quashed and set aside. The respondent No.1 - authority is hereby directed to reconsider the application of the petitioner in accordance with law, as expeditiously as possible preferably within a period of three months from the date of receipt of present order, after giving opportunity of hearing to the petitioner.

[5.0] With the above direction, the present petition stands disposed of. Direct service is permitted."

3 Learned Assistant Government Pleader, Ms.Aishwarya Gupta, appearing for the respondent State contends that the Division Bench of this Court has by an order of 20.09.2017 has held that such application for transfer cannot be considered due to the pendency of the S.L.P(C) No. 896/2012. However, considering the issue at hand and looking to the orders passed by this Court in similar circumstances on 26.12.2018 and on 13.08.2018, this Court deems it fit to dispose of the petition with a direction that the respondent authorities shall consider the application of the petitioner for the transfer of plot in accordance with law as expeditiously as possible after giving an opportunity of hearing.

With the aforesaid direction, the petition is disposed of.

Direct and service is , permitted.