

(2021) 08 GUJ CK 0034

In the Gujarat High Court

Case No : R/Writ Petition (Pil) No. 222 Of 2014, Civil Application (For Stay) No. 1, 3 Of 2018

Rizwan Ahmed Usmani

APPELLANT

Vs

Government Of India & 8 Other(S)

RESPONDENT

Date of Decision : 19-08-2021

Acts Referred:

Constitution Of India, 1950 — Article 21

Citation : (2021) 08 GUJ CK 0034

Hon'ble Judges : Dr Vineet Kothari, J; Umesh A. Trivedi, J

Bench : Division Bench

Advocate : N.K. Majmudar, K.M. Antani, Dhaval G Nanavati, Ramnandan Singh, Sudhir M Mehta

Final Decision : Disposed Of

Judgement

Dr. Vineet Kothari, J

1. In present Public Interest Litigation Petition, Mr.R.N. Singh, learned counsel for the Respondent Western Railways has submitted that because of

the interim order of status quo granted by the Co-ordinate Bench of this Court (Coram: Honâ??ble The Chief Justice Mr. Bhaskar Bhattacharya and

Honâ??ble Mr. Justice J.B. Pardiwala) on 23.07.2014 at the instance of Petitioner Mr. Rizwan Ahmed Usmani who has now expired and he claimed

to be General Secretary of the Gujarat Pradesh Congress Committee and also Member of All India Congress Committee, the Western Railways has

not been able to implement the project of laying down and constructing the Surat-Udhna upto Jalgaon Third Railway Line Project, for which sum of

Rs.2246.85 crore was sanctioned by the Government in 2018 and the length of the Third Line of Railway is approximately 10 kms. and requiring a

width of 25 mtrs. all along.

2. He submitted that the said area at various spots in and around Surat-Udhna has been encroached by the Petitioner and his likes or persons whose

cause be espoused without any semblance of right, title or interest in the land which admittedly belong to the Western Railways and because of this,

the said Project of great public importance has been delayed causing enormous loss to the Western Railways and the country and also the general

public interest which could have been served by laying the Surat-Udhna upto Jalgaon Third Railway Line Project for Goods which has not been

fulfilled and that has caused transportation of incalculable financial and indirect national loss.

3. Mr. Dhaval G. Nanavati, learned counsel for the Respondent â?" Surat Municipal Corporation supported the arguments of Mr. R.N. Singh.

4. Mr. N.K. Majmudar, learned counsel appearing for the Petitioner and class of the persons, namely encroachers, has submitted that the Petitioner

and persons whose cause he has raised in this PIL, are very poor people and they work on Railway Platforms and nearby areas and since they do not

have regular housing facilities available to them, they were compelled to make their huts at various places on the said land belonging to the Western

Railways and their dislocation and displacement from here will cause them loss of their source of livelihood and shelter enshrined under Article 21 of

the Constitution of India. While submitting so, learned counsel for the Petitioner Mr. Majmudar had no answer for the supervening public interest

involved in laying down the Railway Line, which cannot obviously be twisted around the hutments of these people who are represented by Mr.

Majmudar. He suggested a via media that this Court may consider directing some responsible officer of the State Government to consider the cases of

allotment of houses or tenements under Pradhan Mantri Awas Yojana or Chief Minister Awas Yojana to them and these people of this class may be

permitted to make their representations to the Secretary, Urban Housing and Urban Development Department, State of Gujarat.

5. On the aforesaid suggestion of learned counsel Mr.Majmudar, this Court has made it clear that it will be considered only on the condition that even

allowing them to make a representation for this will not entitle them in any manner to stay back at the site in question so as to thwart, hinder, stall or

stop Surat-Udhna upto Jalgaon Third Railway Line Project, in which a larger public interest is obviously involved, in the timely and expeditious completion of the said Project.

6. Because of the said interim order granted on 23.07.2014, obviously the said Project could not be completed so far causing direct and indirect financial and other loss to the Government and the Railways.

7. We understand the pain caused by displacement or dislocation of the hutment dwellers alongside the Railway line where this third line of the

Western Railways has to be made, but their living there alongside the Railway tracks is a serious threat to their life itself and admittedly since the

people belonging of this class do not have any proprietary rights over the said land in question, they cannot be granted any injunction against the

Railways, so as to delay or stall such project of larger public interest.

8. In these circumstances of the case, the only submission made on behalf of the learned counsel for the Petitioner Mr.Majmudar, which we can

record, is that even if these persons belonging to this class are evicted or displaced or removed from the site of Surat-Udhna upto Jalgaon Third

Railway Line Project land, they should be allowed to approach the State Government for considering the cases for suitable alternative accommodation

under the Pradhan Mantri Awas Yojana or Chief Minister Awas Yojana at other Government lands, subject to the fulfillment of conditions under

those schemes.

9. Accordingly, we vacate the Interim Order dated 23.07.20214 granted by the Co-ordinate Bench of this Court and permit the Western Railways to

go ahead and undertake Surat-Udhna upto Jalgaon Third Railway Line Project on the land in question belonging to them and to use such appropriate

and adequate force if necessary, for removal of the said hutment dwellers and encroachers from the land in question belonging to the Western

Railways. Neither the said order dated 23.07.2014 nor any interim order granted in this regard in any other matter pending in this Court or lower Court

will come in the way of Western Railways for this purpose and they should go ahead with the completion of this Project expeditiously.

10. In the circumstances of the case, we permit the Authorised Representative of the said class of persons, preferably an Advocate, without any

political background to approach the Secretary, Urban Housing and Urban

Development Department, State of Gujarat with the applications of the eligible persons who are affected by the said displacement or dislocation and the said Secretary or a person duly authorised by him in this behalf may consider such applications in accordance with law.

11. However, we make it again clear that this direction to the persons / Applicants or any Authorised Representative approaching the State

Government for allotment of alternative accommodation subject to fulfillment of conditions under those Schemes and the State Government being

requested to consider their applications, will not in any manner stop, delay or affect the progress of work undertaken by the Western Railways on the

Surat-Udhna upto Jalgaon Third Railway Line Project and for their purposes, there is no stay or injunction against the Western Railways.

In view of the above directions, the Public Interest Litigation Petition itself is disposed of. The Civil Applications are also disposed of.