
(2011) 09 GUJ CK 0154
In the Gujarat High Court

Case No : Special Civil Application No. 7536 of 2011

Sakariben Keshvalal Patel

APPELLANT

Vs

District Registrar and Others

RESPONDENT

Date of Decision : 19-09-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Gujarat Co-operative Societies Act, 1961 — Section 20(1)

Citation : (2011) 09 GUJ CK 0154

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Kalpesh N. Shastri, for the Appellant; J.K. Shah, Asst. Government Pleader for Respondents 1-3, Chirag Patel and B.S. Patel for Respondents 4-8, for the Respondent

Final Decision : Allowed

Judgement

M.R. Shah, J.—RULE. Mr. J.K. Shah, learned Assistant Government Pleader waives the service of notice of rule on behalf of the Respondent Nos. 1 to 3 and Mr. Chirag Patel, learned advocate waives the service of notice of rule on behalf of the contesting Respondent Nos. 4 to 8.

2. In the facts and circumstances of the case and with the consent of the learned advocates appearing on behalf of the respective parties, present petition is taken up for final hearing today.

3. Present petition under Article 226 of the Constitution of India has been preferred by the Petitioner to quash and set aside the impugned order passed by the learned Deputy Secretary (Appeals), Agriculture and Cooperation Department, State of Gujarat - Respondent No. 3 in Revision Application No. 294 of 2010 dtd.28/2/2011 permitting the Respondent Nos. 4 to 8 as party Respondents in the Revision Application No. 53 of 2006 pending before the learned Additional Registrar (Appeals).

4. It is submitted that being aggrieved by and dissatisfied with the order passed by the District Registrar u/s 20(1) of the Gujarat Cooperative Societies Act dtd.8/6/2005 cancelling the registration of the Punit Jyot Cooperative Housing Society Limited, the Petitioner had preferred Revision Application No. 53 of 2006 contending inter-alia that they are the Chairman, Secretary and Member of the Administrative Committee of the Society and they are having entire records of the society. The said application was opposed by the Petitioner questioning the status of the Respondent Nos. 4 to 8 herein. As Chairman, Secretary and Member of the Administrative Committee of the Society. It was also the case on behalf of the Petitioner that as such the application was submitted by the Respondent Nos. 4 to 8 with ulterior motive. That the learned Additional Registrar (Appeals), Cooperative Societies, Gujarat State, dismissed the said application by order dtd.15/10/2010. Being aggrieved by and dissatisfied with the order passed by the Additional Registrar (Appeals), Respondent Nos. 4 to 8 herein preferred Revision Application No. 294 of 2010 before the Dy.Secretary (Appeals), Agriculture and Cooperation Department, Gandhinagar, who by his impugned order has allowed the said Revision Application permitting the Respondent Nos. 4 to 8 to be jointed as party Respondents to the aforesaid Appeal pending before the Additional Registrar (Appeals). Being aggrieved by and dissatisfied with the order passed by the Dy.Secretary (Appeals) in Revision Application No. 294 of 2010, Petitioner has preferred the present petition under Article 226 of the Constitution of India.

5. After arguing the matter for sometime, learned advocate appearing on behalf of the respective parties, considering the fact that the impugned order passed by the Dy.Secretary (Appeals) is a non-speaking and non-reasoned order and no reasons have been assigned by the Dy.Secretary (Appeals) in the impugned order with respect to the status and/or locus of the Respondent Nos. 4 to 8, there is a broad consensus between the learned advocate appearing on behalf of the respective parties to quash and set aside the impugned order passed by the Dy.Secretary (Appeals) and to remand the matter to the said authority for deciding the aforesaid Revision Application afresh, in accordance with law and on merits, and after giving an opportunity to all the parties and to pass a reasoned and speaking order.

6. The learned advocate appearing on behalf of the respective parties do not invite further reasoned order as the matter is to be remanded to the revisional authority for deciding the Revision Application afresh, as stated hereinabove and hence this Court is not assigning reasons and is not passing reasoned order while quashing and setting aside the impugned order passed by the Dy.Secretary (Appeals) and remaining the matter.

7. In view of the above broad consensus between the learned advocates appearing on behalf of the respective parties, impugned order passed by the learned Deputy Secretary (Appeals), Agriculture and Cooperation Department, State of Gujarat - Respondent No. 3 in Revision Application No. 294 of 2010

dtd.28/2/2011 is hereby quashed and set aside and the matter is remanded to the said revisional authority for deciding the Revision Application afresh, in accordance with law and on merits, and after giving an opportunity to all the parties and to pass a reasoned and speaking order with respect to status and/or locus of the Respondent Nos. 4 to 8 herein. Such exercise shall be completed within a period of TWO MONTHS from today. Rule is made absolute accordingly.