

(2010) 09 GUJ CK 0090

In the Gujarat High Court

Case No : Special Civil Application No. 7539 of 1995

Shramjivi Cooperative Housing Society

APPELLANT

Vs

Collector and Another

RESPONDENT

Date of Decision : 08-09-2010

Acts Referred:

Gujarat Municipalities Act, 1963 — Section 258(1)

Citation : (2010) 09 GUJ CK 0090

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : Yogesh S. Lakhani, for the Appellant; Rashesh Rindani, Assistant Government Pleader for Respondents 1-2, for the Respondent

Judgement

K.S. Jhaveri, J.—The petitioner is a cooperative housing society registered under the provisions of the Gujarat Cooperative Societies Act, 1961. It has applied to Una Municipality on 17th June 1979 for land bearing Plot No. 63 of the Town Planning Scheme No. 2 for the purpose of construction of houses by its members. Pursuant to the said application, respondent - Municipality passed Resolution No. 40 on 28th July 1979 resolving to allot the said land after determining the value of the land. After determining the value of the land, the respondent - Municipality called upon the petitioner society to deposit 25% of the value of the land vide its letter dated 8th November 1979 pursuant to which petitioner Society deposited Rs. 6998 on 26th November 1979.

2. On 17th December 1991 the remaining 75% of the consideration of the land of Rs. 20,994/- was paid by the petitioner society to respondent No. 2 and thereafter document was executed in favour of the petitioner society. Pursuant to the execution of the sale deed the petitioner Society issued Sanads to the individual members and physical possession of the plots were also handed over to the concerned members of the Society. Thereafter, the members of the Society submitted plans for construction, which were approved by the Municipality.

3. Thereafter, Collector in exercise of powers u/s 258(1) of the Gujarat Municipalities Act passed the impugned order on 21st January 1995 (Annexure-G to the petition).

4. Heard learned Counsel for the parties. By way of this petition the petitioner has challenged the judgment and order dated 21st January 1995 passed by the Collector, Junagadh whereby the Resolution passed by the Una Municipality dated 15th July 1991 was reversed whereby the land admeasuring 3490 square meters was sold to the petitioner. The resolution was passed in the year 1979 (at Annexure-A to the petition) and subsequently the land was developed. Only on the ground of delay the order of the Collector is required to be quashed and set aside. During the pendency of the petition, the petitioner has been protected. In that view of the matter also, it will not be appropriate to reverse the situation after passage of so many years. Th order of the Collector dated 21st January 1995 is quashed and set aside. Rule is made absolute.