

(2019) 08 GUJ CK 0052

In the Gujarat High Court

Case No : R/Special Civil Application No. 14061 Of 2019

Somiben Arvindbhai Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 20-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 14, 19, 226

Citation : (2019) 08 GUJ CK 0052

Hon'ble Judges : A.J. Desai, J

Bench : Single Bench

Advocate : Ramnandan Singh, K.M. Antani

Final Decision : Disposed Of

Judgement

A.J. Desai, J

1. By way of present petition under Articles 14, 19 and 226 of the Constitution of India, following prayers have been made.

"(B) Your Lordships may be pleased to issue writ of mandamus or any other appropriate writ, order or direction, and be pleased to quash and set aside the impugned notices dated 5.7.2019 and 6.8.2019 issued to the petitioners (at Annexure-?E?), by holding that the order dated 16.9.2008 passed by the District Collector, Bharuch at Annexure-?D? was not valid on completion of two years from the date of passing the order i.e. 16.9.2008 as the various conditions in the order were breached and not complied with by 16.09.2010;

(C) Your Lordships may be pleased to direct the respondent District Collector to allot some other piece of land for construction of Jhagadia Police Station, in place of land bearing City Survey No. 476, situated in village Sultanpura, Taluka Jhagadia, District Bharuch;

(D) Your Lordships may be pleased to direct the respondent authorities to allot the land to the petitioners at Jantri price in such a way that they can construct

shops on land bearing City, Survey No. 476, situated in village Sultanpura, Taluka Jhagadia, District Bharuch by considering that they have been doing business for more than 20-25 years and these are the only source of their bread and butter for themselves and their families. Even some portion of the land of City Survey No. 476 could be allotted for construction of Police Station and rest of the portion can be given to the petitioners as entire land bearing City Survey No. 476 was not allotted for construction of Jhagadia Police Station;

(E) Alternatively, Your Lordships may be pleased to direct the respondent authorities to allot some other piece of land to all the petitioners at Jantri price in the near vicinity so that the petitioners can still have their earning and continued to do small business of selling vegetables, fruits and some other small business;

(F) Pending admission, hearing and final disposal of the present Special Civil Application, Your Lordships may be pleased to direct the respondent authorities not to take any coercive steps including removing the lorries/shades/shops from land bearing City Survey No. 476, situated in village Sultanpura, Taluka Jhagadia, District Bharuch and they may be allowed to continue to do the business on the said piece of land till decision of either allotting some other plot or final decision is taken by the authority considering the various prayers made in the petition;"

2. It is the case of the petitioners that they are carrying on business on the disputed land since number of years and are having electric connection from the electric company and are paying some fees to Sultanpura Gram Panchayat. It is also the case of the petitioners that they are from lower strata of society and by carrying on small business, they are earning their livelihood.

3. It is also the case of the petitioners that petitioners would request the District Collector, Bharuch to grant alternative land so that the petitioners can carry out similar type of business and shall make application to the District Collector, Bharuch on or before 23.08.2019.

4. Mr. Ramnandan Singh, learned advocate appearing for the petitioners would submit that the petitioners shall make a detailed representation to the District Collector, Bharuch on or before 23.08.2019 and the District Collector shall be directed to deal with the representation accordingly. He would further submit that though the land in question was granted by the State of Gujarat way back in the year 2008 on certain conditions for construction of Jhagadia Police Station, no police station has been constructed till date. Therefore, he has requested to pass appropriate order that till the representation that may be filed by the petitioners is decided by the District Collector, the petitioners shall not be removed from the land in question.

5. On the other hand, learned AGP would submit that it is an undisputed fact that the land in question was granted by the State of Gujarat way back in the year 2008 for construction of police station, the petitioners are in illegal possession of the land in question and therefore, the authorities have rightly issued notices for removing the illegal encroachment. He, therefore, would submit that the petition

be dismissed.

6. I have heard learned advocates appearing for respective parties. Perused the documents produced alongwith the petition as well as the order of 2008 by which the land in question was granted to the police department of District Bharuch. Therefore, in my view following order would meet the ends of justice.

The petitioners shall file a detailed representation to the District Collector, Bharuch on or before 23.08.2019. The District Collector, Bharuch after giving opportunity of hearing to the petitioners, which could be represented by five persons, which may be decided amongst the petitioners who are before this Court, shall decide the representation as early as possible but not later than 13.09.2019. Till the representation is decided, the notices impugned in the present petition shall not be implemented.

7. With above direction, petition is disposed of. Direct service is permitted TODAY.