

(2023) 10 GUJ CK 0020

In the Gujarat High Court

Case No : R/Special Civil Application No. 16193 Of 2019

Thakor Valjiji Revaji

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-10-2023

Acts Referred:

Citation : (2023) 10 GUJ CK 0020

Hon'ble Judges : Nirzar S. Desai, J

Bench : Single Bench

Advocate : Kartik I Soni, Jay Trivedi

Final Decision : Dismissed

Judgement

Nirzar S. Desai, J

1. By way of this petition, the petitioners have challenged the order dated 18.12.2018 passed by the Board of Nominee, Mahesana in Lavad Suit No.395 of 2018 as well as order dated 10.04.2019 passed by the Gujarat State Co-operative Tribunal, Ahmedabad in Revision Application No.19 of 2019.

2. Heard learned advocate Mr. Kartik Soni for the petitioners and learned AGP Mr. Jay Trivedi for the respondent No.1 and learned senior advocate Mr. B.S. Patel with learned advocate Mr. Manish Shah for the respondent Nos. 2 and 3.

3. The petitioner No.1 is the original applicant of Lavad Suit No. 395 of 2018 and by way of aforesaid Lavad suit the petitioner has prayed for relief that all the members of the society may be directed to collect the milk only in the old building of the society situated at opposite Thakor Maharaj Mandir and not in the building situated at Thakor Vas.

4. The Board of Nominees vide interim order dated 18.12.2018, rejected the application for interim relief preferred by the petitioner, and therefore being aggrieved by the same the petitioners preferred revision application before the Gujarat State Co-operative, Tribunal being revision application No.19 of 2019 and

whereby by filing revision application No. 19 of 2019 and the said revision application also was rejected by learned Co-operative, Tribunal vide order dated 10.04.2019. Both these orders are under challenged by way of this petition.

5. On perusal of record, it transpires that while rejecting the revision application No.19 of 2019, vide order dated 10.04.2019, the Tribunal considering the fact that another Lavad Suit preferred by the petitioner No.1 being Lavad Suit No.382 of 2018 is pending before the Board of Nominees and that the relief is operating in favour of the petitioner and therefore the Co-operative, Tribunal while rejecting the Revision Application No.19 of 2019 passed an order and directed the Board of Nominees, Mahesana to hear and decide the Lavad Suit Nos. 382 of 2018 and 395 of 2018 together to decide immediately.

6. Learned advocate Mr. Kartik Soni appearing for the petitioners, at the outset submitted that he does not have any objection if both the suits are directed to be heard together, which direction has already been given by the Tribunal and the same may be directed to decide within some time bound schedule, considering the fact that the petition is pending since 2019 and thereafter some development has taken place.

7. The aforesaid request was not opposed by learned senior advocate Mr. Patel appearing with learned advocate Mr. Manish Shah and learned AGP Mr. Jay Trivedi.

8. In view of above, without entering into merits of the matter, following direction is issued.

9. This court though has not found any illegality committed by the Board of Nominee or Co-operative Tribunal while passing the impugned orders dated 18.12.2018 in Lavad Suit No.395 of 2018 or the order dated 10.04.2019 in Revision Application No. 19 of 2019. The Court and therefore though the petition is required to be dismissed, the Board of Nominees, Mahesana is directed to heard and decide the Lavad Suit Nos. 382 of 2018 and 395 of 2018 together and to be decided latest by 31.03.2024 with the cooperation of the parties.

10. It is further clarified that while deciding both the Lavad Suits together, the Board of Nominees shall not be influenced by the fact that this Court has dismissed the petition and both the suits be decided on their own merits on the basis of material available on record.

11. With the aforesaid directions, the petition is dismissed. Notice is discharged. No order as to costs.

12. It is brought to the notice of the Court by learned advocate Mr. Kartik Soni that some of the respondents and more particularly the respondent No.5 has changed its name.

13. Considering the fact that if that is so, the the petitioner original applicant in the Lavad Suit No. 382 of 2018 and 395 of 2018 may make appropriate

application before the Board of Nominees and if such application is made, the Board of Nominees may consider in accordance with law.