

Gujarat High Court

Appearance vs Mr Nj Shah on 8 July, 2011

Author: V. M. G.B.Shah,

Gujarat High Court Case Information System

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SCA/3526/2011 3/ 3 JUDGMENT

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL
CIVIL APPLICATION No. 3526 of 2011

For
Approval and Signature:

HONOURABLE
MR.JUSTICE V. M. SAHAI
Sd/-

HONOURABLE
MR.JUSTICE G.B.SHAH
Sd/-

=====

1

Whether

Reporters of Local Papers may be allowed to see the judgment ?

NO

2

To

be referred to the Reporter or not ?

NO

3

Whether

their Lordships wish to see the fair copy of the judgment ?

NO

4

Whether

this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

NO

5

Whether

it is to be circulated to the civil judge ?

NO

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PATEL
HARJIBHAI BABABHAI AND OTHERS

Versus

STATE
OF GUJARAT THROUGH SECRETARY TO THE AND OTHERS

=====Appearance

:

MR GUNVANT
R THAKAR for
the Petitioners
MR NJ SHAH, ASSTT GOVERNMENT PLEADER for
Respondent Nos.1,4 and 5
MR HS MUNSHAW for Respondent Nos.2 and 3

=====

CORAM

:

HONOURABLE

MR.JUSTICE V. M. SAHAI

and

HONOURABLE

MR.JUSTICE G.B.SHAH

Date

: 08/07/2011

ORAL

JUDGMENT

(Per : HONOURABLE MR.JUSTICE V. M. SAHAI)

1. We have heard learned counsel Mr. G.R. Thakar for the petitioners, learned Assistant Government Pleader Mr. N.J. Shah for respondent Nos. 1,4 and 5 and learned counsel Mr. H.S. Munshaw for respondent Nos.2 and

3.

2. This petition has been filed by the petitioners for issuance of the direction to the respondent authorities to fix compensation and to pay the petitioner solatium, interest, etc. by completing the procedure for acquisition and by making an award.

3. The writ petition was prepared on 13th October 2010, but was filed in the Registry on 14th March 2011.

4. Notification under Section 4 of the Land Acquisition Act (for short, 'the Act') was issued on 26.5.2011 for acquiring the same land on which the road has already been constructed. Declaration under Section 6 of the Act has not yet been issued. However, in the affidavit-in-reply, filed by respondent No.2, it is admitted that the road known as Moli-Majethi

-Rajapar Road, Taluka Dasada, District Surendranagar, having width of 6 Mtrs. and length of 4 Km. was constructed in the year 1980-1981 and the said District Road was a new road. The possession of the land for construction of the road was taken by the respondents on 2.5.1981 from the land owners.

5. It is alleged that the petitioners whose land was taken for construction of the road claimed compensation which was considered by the respondents in the year 1989 and correspondence took place between the respondent Nos.2,3,4 and 5.

6. The grievance of the petitioners is that since the possession of the land has been taken on 2.5.1981, this fact may be considered by the Collector while making award under Section 11 of the Act.

7. Once this is an admitted fact that the possession of the land has been taken by the State on 2.5.1981 for construction of the new road and the road has been constructed, this fact shall be taken into consideration by the Collector while making award under Section 11 of the Act in pursuance of the land acquisition proceedings which have been initiated on 26.5.2011.

8. With the aforesaid direction, this petition stands finally disposed of.

Sd/-

(V.M.

SAHAI, J.) Sd/-

(G.B.

SHAH, J.) omkar Top