

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) (WRIT PETITION (PIL)) NO. 9 of 2024****With****CIVIL APPLICATION (FOR JOINING PARTY) NO. 4 of 2024****In****R/WRIT PETITION (PIL) NO. 9 of 2024**

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RE-MANAGEMENT OF THE WATER BODIES SUCH AS
RESERVOIRS/PONDS/RIVERS/LAKES IN THE STATE OF GUJARAT, & ANR.

Versus

STATE OF GUJARAT THROUGH THE SECRETARY HOME DEPARTMENT & ORS.

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Appearance:

LAW OFFICER BRANCH(420) for the Applicant(s) No. 1,2

MS E.SHAILAJA(2671) for the Applicant(s) No. 1,2

MR PRAKASH JANI SR. ADVOCATE with G H VIRK(7392) for the Opponent(s) No. 2

MR KAMAL TRIVEDI LD. ADVOCATE GENERAL with MR VINAY BAIRAGRA
ASSISTANT GOVERNMENT PLEADER for the Opponent(s) No. 1

MR SIDDHARTH H DAVE(5306) for the Opponent(s) No. 5

MR MEHUL B DHONDE for MR UTKARSH J DAVE(10620) for the Opponent(s)
No. 3

NOTICE SERVED for the Opponent(s) No. 4

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***CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL***

and***HONOURABLE MR. JUSTICE PRANAV TRIVEDI*****Date : 18/10/2024****ORAL ORDER*****(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)***

Mr. Pratik Bhatia, learned advocate has put in appearance on behalf of Binit Kotia, one of the partners of M/s. Kotia Projects which is a partnership firm. The notice upon respondent no. 4, namely Ms/. Kotia Projects, through its Directors/Partners, 10 Nilkanth Bungalows, Tax Complex, Vasna Road, Vadoara has been served on 11.09.2024 upon Mr. Binit Kotia, shown as the Director of M/s. Kotia

Projects through the office of the Collector.

2. It is sought to be submitted by Mr. Pratik Bhatia, learned advocate, who claims to have received oral instructions from Mr. Binit Kotia that Mr. Binit Kotia on one hand was not a Director rather a partner in the partnership firm and moreover, he has retired from the partnership firm much before the incident in question. All these submissions made at the bar are not supported by any material on record. In spite of due service of notice for about more than one month, there is no response to this Court. There is nothing on record which would substantiate the contention of Mr. Binit Kotia appearing through learned advocate Mr. Pratik Bhatia that he is not concerned with the partnership firm.

3. Be that as it may, the partnership firm has been impleaded not by the name of any Director or partner. It is rather impleaded through the Director/Partners. Even if it is accepted for a moment that Mr. Binit Kotia has no concern with the partnership firm as on date, no other partner of the firm has come forward to represent the firm impleaded as respondent no. 4. We, therefore, hold that respondent no. 4 remains unrepresented in spite of receipt of the notice of the present Public Interest Litigation and therefore, we proceed to decide the issue with the aid and assistance of the

counsels appearing in the matter.

4. It is further pertinent to note that one more learned advocate Mr. P.B. Khambholja, has put in appearance to submit that four partners of the firm, namely M/s. Kotia Projects have filed impleadment application to join as party in their individual capacity. The said application has been filed only yesterday in the Registry. We may note that the prayer for impleadment of partners in their individual capacity cannot be accepted, *inasmuch* as, on a query made by the Court as to whether they are representing M/s. Kotia Projects, it was submitted that there are 13 partners in total and four of them cannot represent the partnership firm, namely respondent no. 4.

5. We, thus, find that the application seeking for joining party moved by four partners in their individual capacity is nothing but an effort to stall the proceedings, *inasmuch* as, partnership firm can be represented by any of the partners. From the above noted submissions of two advocates appearing on behalf of the individual partners of the firm, namely M/s. Kotia Projects, it is evident that the partners associated with the partnership firm are trying to stall the proceedings where the Court is examining the question of awarding compensation to the victims from the accounts of the partnership

firm.

6. Noticing this attitude of the partners of the firm, namely M/s. Kotia Projects, who have been served with the notice of the present petition, we see no reason to adjourn the matter today to facilitate the respondent no. 4 to engage a counsel. We proceed with the matter with the finding that no one has put in appearance on behalf of M/s. Kotia Projects inspite of due service of notice about one and half months ago, further despite of the adjournment granted by us on the last date fixed i.e. 11.10.2024.

7. The Civil Application (For Joining Party) No. 4 of 2024 is accordingly, rejected.

8. In order to ascertain the quantum of compensation to the victims, namely kin of deceased and also the injured victims, which is to be paid by the erring Contractor firm, namely M/s. Kotia Projects, respondent no. 4 herein, we require the Collector, Vadodara to make an inquiry and present the details of the victims of both the aforesaid categories before us. The said details must contain the name, age and address of the victims.

8.1. The application filed on behalf of one of the victims dated 12.09.2024 will be considered on the next date fixed after receipt of

the report of the Collector.

Put up this matter on **25.10.2024** at **12:30 pm**.

(SUNITA AGARWAL, CJ)

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(PRANAV TRIVEDI,J)