

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 16589 of 2020**

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JAYANTIBHAI SOMABHAI PATEL

Versus

THE MUNICIPAL CORPORATION OF AHMEDABAD, TROUGH THE
MUNICIPAL COMMISSIONER

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Appearance:

MR AMAR N BHATT(160) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2,3,4,5,6,7,8,9

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA**Date : 24/12/2020****ORAL ORDER**

Heard learned Senior Advocate Mr. Mihir Thakore assisted by learned advocate Mr. Amar N. Bhatt for the petitioner through video conference.

Learned Senior Advocate Mr. Thakore invited attention of the Court at para 2.7 of the petition, which reads as under :

"2.7. In spite of several requests and reminders by the respondents No. 5 to 9 for allotting them the Final Plot, since nothing was done by the Respondents No. 1 and 2, the Respondents No. 5 to 9 filed Special Civil Application No. 9757 of 20208 in which Rule is issued and which is pending for final hearing. The Petitioner herein filed an IA to implead himself as the Petitioner in the said Special Civil Application No. 9757 of 2008. However, the Hon'ble Court (Coram: R.H. Shukla, J.) vide

order dated 8/2/2018 recorded the statement on behalf of the Petitioner herein that he may be joined as party Respondent in the said Special Civil Application No. 9757 of 2008 and be granted liberty to apply for transportation at a later date. The petitioner craves leave to produce the complete set of pleadings namely the said Special Civil Application No. 9757 of 2008, the replies of the Respondents therein and the rejoinder filed in the said Special Civil Application No. 9757 of 2008 at the time of the hearing. In the reply to the Special Civil Application No. 9757 of 2008, the Respondent No.1 has inter alia contended that on 27.07.1983, it appears that the Town Planning Officer took a decision that Revenue Survey Nos. 436, 437, 442/1 and 442/2 be treated as one of the combined original plot namely Original Plot No. 20 and 22 and in lieu thereof, the original owners were allotted Final Plot Nos. 25, 29, 30 and 35. Such decision to combine the plots was taken without issuing any notice to the Respondents No. 5 to 9 and without obtaining their consent. Without admitting the replies filed in the Special Civil Application No. 9757 of 2008, the Petitioner submits that the said TP Scheme has not been effectively executed or implemented by the Respondent No.1 which is evident from the following:

(a) Revenue Survey No. 442/1 of the ownership of the Respondent No. 5 to 9 formed part of OP on the northern part thereof. However, while making the TP Scheme final, the said particular part of OP 22 which was original Revenue Survey No. 442/1 became part and parcel of Final Plot No. 34.

(b) In the TP Scheme, Final Plot No. 34 is reserved for public purpose namely for neighbourhood centre and civic centre.

(c) In Form I against the land of the Respondents No. 5 to 9 in exchange of their lands have been awarded Final Plot No. 29 admeasuring 26052 sq.mtrs. Of land. The said land bearing Final Plot No. 29 is, however, not a vacant land but has been occupied by the Respondent no.3.

(d) As stated hereinabove, the Revenue Survey No. 436 and 437 never belonged to the Respondents No. 5 to 9. Similarly the land bearing Revenue Survey No. 442/2 never belonged to the Respondents No. 5 to 9. The Town Planning Officer therefore could not have taken a decision to club Revenue Survey No. 436, 437, 442/1 and 442/2. That apart, Final Plot No. 29 appears to have been constructed out of Revenue Survey No. 436 and 437 over which the Respondent No.3 – Society is situated.”

It was submitted by Mr. Thakore that the petitioners have purchased the land in question from the original owners and therefore, the petitioner has stepped into the shoes of original owners. It was therefore, submitted that this petition may be heard with Special Civil Application no.9757 of 2008 on any convenient date.

Considering the above, stand over to **27th January, 2021.**

To be heard with Special Civil Application no.9757 of 2008.

(BHARGAV D. KARIA, J)

AMAR RATHOD