

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/LETTERS PATENT APPEAL NO. 985 of 2013****In R/SPECIAL CIVIL APPLICATION/3681/2012**

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GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION & ANR.

Versus

KETAN KUNVERJI DESAI
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Appearance:

MR MIHIR JOSHI, SENIOR ADVOCATE with

MR RD DAVE(264) for the Appellant(s) No. 1,2

MR ZUBIN F BHARDA(159) for the Respondent(s) No. 1

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CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL

and

HONOURABLE MR. JUSTICE D.N. RAY

Date : 08/07/2026**ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)**

1. Coming to the merits of the intra-Court appeal, the same is directed against the judgment and order dated 18.12.2012 passed by the writ Court in Special Civil Application No. 3681 of 2012, filed for the following reliefs:-

“a) Your Lordships may be pleased to admit and allow this petition.

b) Your Lordships be pleased to issue a writ of mandamus and/or any other appropriate writ, order or direction in the nature of mandamus against the respondent GIDC directing the respondent GIDC to consider the circular of the GIDC dated 26.06.2002 (Annexure-K) and

accordingly not less than 3% of the total land lost by the petitioner, be directed to be allotted to the present petitioner. HIGH COUR

c) By appropriate writ, order or direction, Your Lordships may be pleased to direct the respondent GIDC to allot in his favour plot No.C-5/52 & 53 as the injunction granted in SCA No.6565/2001 is vacated.

d) By appropriate writ, order or direction, Your Lordships may be pleased to declare the order of rejection of the representation (Annexure-L) dated 13.12.2011 as illegal and void and be pleased to quash and set aside the same.

e) Pending admission, hearing and/or final disposal of this petition, Your Lordships may be pleased to restrain the GIDC from allotting plot No.C-5/52 & 53 situated at Vapi GIDC Estate to another person except the present petitioner."

2. The writ Court has noted that the dispute arose with the acquisition of the land of the father of the petitioners - original petitioner who was having land more than 5 acres at Vapi. While taking over the land, the Gujarat Industrial Development Corporation (GIDC) had framed a policy whereby the landlosers were entitled for allotment of commercial plot for establishment or rehabilitation of their families and the said land was to be allotted at a 25% concessional rate.

3. Accordingly, as per the then policy of the GIDC, the petitioner's father made an application for allotment of commercial plot, however, when nothing was done, a Special Civil Application No. 7430 of 1999 was filed which was disposed of vide judgment and order dated 14.09.2001 in the following manner:-

"1. The petitioners who are the land losers have filed these petitions challenging the order dated 29.7.1999 passed by Gujarat Industrial Development Corporation expressing inability to allot commercial plots on the ground that the petitioners did not make application within the prescribed time limit. There is no dispute to the fact that the lands of the petitioners were acquired by the respondent no.1 State of Gujarat for respondent no.2 Corporation. It is also not in dispute that the respondent no.2 Corporation published a scheme to allot commercial plot in GIDC area, Vapi to the land losers as well as to some special category of citizens. It appears that a deadline of 10.1.1994 was fixed by the respondent no.2 Corporation to accept the applications for allotment. It is also not in dispute that the petitioners applied after the said deadline and, therefore, their applications came to be rejected.

2. It is the grievance of the petitioners that even after the said deadline, the respondent no.2 Corporation has accepted applications from other persons, not only from the land losers, but from the kith and kins of politicians. It is not necessary for me to go into the said question especially when the petitioners have not prayed for quashing and setting aside the said allotment to other category of persons who are not land losers. The only prayer the petitioners have made is to quash and set aside the decision of the respondent Corporation not to allot commercial plot to the petitioners on the ground that the allotment is stopped after prescribed date of allotment. The petitioners have also prayed to allot commercial plot to the petitioners on the basis that they are the land losers. In my opinion, the petitions are required to be decided on the basis of the prayer made in the petitions.

3. Mr.M.B.Gandhi, learned Counsel for the respondent Corporation, during the course of hearing, made a statement that the cases of the

petitioners shall be considered along with the cases of land losers and they will be allotted plots for commercial purposes as early as possible and in no case later than 31st December 2001 irrespective of the fact that they have applied after the cut off date. Mr. Gandhi further made a statement that the respondent Corporation shall not dispose of lands in favour of third party by way of auction or any other mode till the petitioners are allotted land by the Corporation.

4. In my opinion, the aforesaid statement of learned Counsel Mr. Gandhi takes sufficient care of the interest of the petitioners. In fact, the petitioners are given much more than they have prayed for in the petitions and, therefore, it is not necessary for me to deal with other the contentions, namely the lands are allotted to persons other than land losers etc.

5. In view of this statement made by Mr. Gandhi for the respondent Corporation, both these petitions are disposed of. Rule is discharged with no order as to costs."

4. Second writ petition namely Special Civil Application No. 7542 of 2002 was, thereafter, filed by the original petitioners on the premise that their representations were not decided properly. From the record of Special Civil Application No. 7542 of 2002 summoned by us vide order dated 01.04.2026, we may note the reliefs prayed therein in the following manner:-

"(A) That this Hon'ble Court may be pleased to issue a writ of certiorari, or a writ in the nature of certiorari, or any other appropriate writ, direction or order under Article 226 of the Constitution of India, quashing and setting aside the Impugned Resolution dated: April, 2002, - Ext 'A', and (ii) to correct, by means of a Writ of Certiorari, the said error committed by the

Respondent No. 2 Corporation in the matter of proposing to allot commercial plots at the said rate, mentioned in the Resolution.

(B) That this Hon'ble Court may be pleased to issue a Writ of Mandamus, or a writ in the nature of mandamus, or any other appropriate Writ, direction or order under Article 226 of the Constitution of India, against the Respondents, ordering and directing the Respondents:

(i) to allot, to the Petitioner, suitable three Commercial Plots in the Commercial Zone in the Vapi G. I. D. C. area, preferably the plots from C-5/52 to 54, which are presently available.

(ii) to forthwith withdraw and cancel the Impugned Resolution Advertisement EXHIBIT 'A', passed by the Respondent Corporation.

iii) to charge the Petitioner the price of the Commercial Plots at the old rate, at which, the allotment was earlier made.

C) That pending the hearing and final disposal of this petition, the Respondents be restrained by an ex-parte 'Order' and 'Injunction' of this Hon'ble Court, from in any manner:

(i) acting further on the said (i) Impugned Resolution Ext.-'A', proposing to hold a Public Auction of the Commercial Plots of Vapi G.I. D. C. area, and

(ii) giving possession of the Commercial Plots Nos. C-5/52 to 54, to the tenderers, even if the auction is held,

(D) The Respondents be issued a and mandatory Order, commanding compelling the Respondents to allot the said Commercial Plots to the Petitioner at the concessional rate in the Vapi G. I. D. C. area, as per the said 'Policy' evolved and followed till today, namely, giving discount to the land losers at the rate of 25 per cent of the price of the plots.

(E) Ad-interim ex-parte reliefs in terms of prayer clause 'C', above, be granted to the Petitioner,

(F) That the petitioner may be granted such further and other relief or reliefs, as the nature and circumstances of the case may require.

(G) That the Respondents be ordered to pay, to the Petitioner, his costs of the petition and incidentals to the petition."

5. It is noteworthy that the writ petition of 2002 was filed by the father of the petitioners (the original petitioners herein), namely the original landloser in the month of August, 2002. The said writ petition was disposed of vide judgment and order dated 28.01.2010 in the following manner:-

"1. By way of this petition the petitioner has prayed for a direction for allotment of suitable three commercial plots in the commercial zone in the Vapi GIDC area preferably the plots C-5/52, 53, 58 and 59, which are persently available, to withdraw and cancel the impugned resolution advertisement Exh. A passed by the respondent corporation and to charge the petitioner the price of the commercial plots at the old rate, at which, the allotment was earlier made.

2. The Gujarat Industrial Development Act, 1962 came into force making special provisions - for securing establishment and organisation of industries and for establishing commercial centers. Thus, Gujarat Industrial Development Corporation- (GIDC) came into existence.

3. The Corporation published a Scheme to allot commercial plots in the GIDC area at Vapi to those land losers, whose lands were acquired, and also to some other categories of citizens, including the members of Scheduled Caste/Scheduled Tribes.

4. The petitioner sent, his application to respondent No. 2 corporation for allotment of a commercial plot on O.T.P basis being a land loser.

5. The Respondent Corporation refused to allot a commercial plot to the petitioner on the ground that the petitioner's application was later than 31st October 1993, though late applications of others were accepted.

6. This Court passed orders in two Special Civil Applications and granted relief to land losers.

7. This Court granted relief to a land loser whose application was also later than 31st October 1993, though he was also denied allotment of commercial plot by the respondents.

8. The respondents were directed to allot commercial plots to land losers, even if applied lately, and therefore the petitioner requested the local advocate to prepare and file the Special Civil Application No. 7431 of 1999.

9. The Special Civil Application No. 7431 of 1999 was finally disposed of. A direction was issued to the respondents to allot commercial plots to the petitioner within particular period. However, the said direction was not honoured, and the respondents passed an impugned resolution in April 2002.

10. Learned advocate for the petitioner has contended that the impugned resolution is arbitrary, and is in breach the 'Solemn Statement' made before this Court. The impugned resolution is liable to be declared illegal and unforceable.

11. Learned advocate for the petitioner has submitted that the impugned resolution is in breach of the principles of estoppel. The respondent Corporation after having made such a solemn and specific statement before this

Hon'ble Court cannot go back from the same.

12. As a result of hearing and perusal of the record I am of the view that interest of justice would be met by passing the following order.

13. The corporation will consider the claim of the petitioner preferred for Plot No C-5/ 52 to 54 at the rate of Rs 1000/- per Sq. mts with 20% concession at the earliest.

14. With the above observation this petition stands disposed of with no order as to costs. Rule is made absolute to the aforesaid extent with no order as to costs."

6. It is brought before us that a note for Speaking to Minutes was filed by the respondent - GIDC upon which the order dated 18.02.2010 was passed in the following manner:-

"Considering the note filed by the learned advocate Mr. C.M.Gandhi, appearing for the respondent the words in para no.13 "plot no. 52 to 54" shall be substituted by the words "plot no. C5/52,53,58 and 59" , in para no.1 the word "three" shall be substituted by the word "four" and in para no.8 and 9 " Special Civil Application No. 7430 of 1999" shall be substituted by the words " Special Civil Application No. 7431 of 1999"

Accordingly, speaking to minutes stands disposed of."

7. It may also be noteworthy that during the pendency of the writ petition of 2002, upon the death of the original land owner / landloser, i.e. the father of the petitioners, the original petitioners herein have been substituted and the writ petition has been decided vide judgment and order dated 28.01.2010 in their presence.

8. The petitioners herein thereafter filed a Contempt Petition namely Miscellaneous Civil Application (for Contempt) No. 215 of 2011 pleading non-compliance of the judgment and order dated 28.01.2010 in Special Civil Application No. 7542 of 2002, which has been disposed of vide judgment and order dated 02.05.2011 in the following manner:-

“1. Mr.Gandhi, learned counsel places on record the the order dated 30th April, 2011 passed by the Gujarat Industrial Development Corporation pursuant to the orders passed by this Court.

2. Mr.Viral Shah, learned counsel states that in view of the above, the grievance of the petitioner is satisfied.

3. Under the circumstances, as the cause for the present proceeding no more survives, the present proceeding is disposed of accordingly. Notice discharged.”

9. It seems that after disposal of the contempt petition, wherein satisfaction of the original petitioners was recorded with respect to the order dated 30.04.2011 passed by the GIDC, placed on record before the Contempt Court, the present writ petition, out of which the present Appeal has arisen, has been filed with the reliefs as noted hereinbefore.

10. The writ Court allowed the writ petition in the following manner:-

“5. I have perused the petition along with papers. I have considered the submissions laid down by the parties. It appears that the petitioner is land loser, which is an admitted and undisputed fact. As per prevailing policy of the

respondent G.I.D.C., the petitioner is being allotted only 499 Sq. Mtrs. of land and therefore, the petitioner has resorted the policy by way of present petition. From the policy, it is crystal clear that the land losers are entitled for 3.5% of the land lost under acquisition so as to rehabilitate land loser. I have also considered the affidavit filed by the respondents. As per direction issued by this Court vide order dated 29.9.2011 in Special Civil Application No.14028 of 2011, the petitioner made representation, which was rejected by the respondent without considering their own policy.

6. In view of the aforesaid facts and circumstances, it is directed to the respondent - G.I.D.C. to allot the deficit land (439 Sq. Mtr.) to the petitioner after following due procedure, within three months from the date of receipt of this order. The petition is allowed to the aforesaid extent."

11. A perusal of the judgment and order dated 18.12.2012 passed by the writ Court indicates that the writ Court was swayed away by the prevailing policy of the respondent - GIDC of the year 2002 while recording that in view of the said policy, the landloser was entitled to 3.5% of the land lost under acquisition for rehabilitation. However, there is absolutely no consideration therein about the previous orders passed by this Court in the first and second round of litigation brought by the original landloser, namely the father of the petitioner and the contempt petition which has been filed by the petitioners herein.

12. It is submitted by Mr. Mihir Joshi, learned Senior Advocate for the appellant that the writ Court has completely ignored the order passed by the Contempt Court wherein the Contempt Court has recorded satisfaction of the original

petitioners herein to the order dated 30.04.2011 passed by the GIDC brought on record whereby two plots (58 and 59) aggregating and admesuring 500 sq meters have been allotted in lieu of the acquisition as per the prevailing policy of the GIDC at the time of moving of application by the landloser.

13. The submission is that the Special Civil Application No. 3681 of 2012 itself was not maintainable in view of the previous orders passed by this Court being the second writ petition filed for the same cause of action. It was argued that the policy formulated by GIDC vide circular dated 26.06.2002 was not applicable in the facts and circumstances of the present case, insofar as the original land owner is concerned.

14. Having noted the said submissions from the reliefs prayed in the writ petition of 2002 filed by the original landloser namely father of the petitioner in the month of August, 2002, as extracted hereinabove, we may note that there is absolutely no whisper of the policy / circular dated 26.06.2002, relief with respect to which has been sought in the subsequent writ petition filed in the year 2012. In our considered opinion, the relief as prayed in the writ petition of 2012, out of which the instant appeal has arisen, in Prayer Clause 12(b), was not available to the petitioner at that point of time, for the simple reason that the relief which could have been claimed in the first writ petition filed in the month of August, 2002 by the original landloser, once not claimed, cannot be permitted to be agitated in the second round of litigation instituted for the same cause of action, as a second thought.

15. It is settled law that all the reliefs / prayers available to the litigant / petitioner at one point of time shall be raised in one round of litigation at the first instance. The cause of action for filing the writ petition of 2002, as can be noted from the reliefs prayed therein, was the resolution passed by the GIDC in the month of April, 2002, which resolved for holding public auction for allotment of commercial plots amongst the landlosers who had filed applications to participate in the auction at the relevant point of time. The relief, if any, could be claimed by the petitioner as per the new policy dated 26.06.2002, was very much available when the writ petition of 2002 was filed by the original landloser. It was the choice of the landloser not to claim such relief at the relevant point of time.

16. It is also noteworthy that even the present petitioners after substitution in the writ petition of 2002, did not seek any amendment to claim the relief pertaining to the circular of the GIDC dated 26.06.2002. As such, the relief sought in Paragraph No. 12(b) in the writ petition of 2012, to consider the claim of the petitioners as per the circular dated 26.06.2002, that too when the petitioner's satisfaction has already been recorded in the judgment and order dated 02.05.2011 by the Contempt Court, as an afterthought, could not have been granted by the Writ Court. A person cannot be permitted to litigate in a Court of law in repeated rounds for the same cause of action, by taking different grounds each time, and, more so, when they were available in the first round itself, but not claimed / raised.

17. With the above, from a careful reading of the judgment and order dated 28.01.2010 passed by this Court in the writ petition of 2002, it is evident that the matter was relegated to the Corporation to consider the claim of the petitioners for allotment of 4 commercial plots @ Rs.1000/- per sq. meters with 20% concession at the earliest. There was no positive mandamus rather the direction was to consider the case of the petitioners as per their claim for allotment of 4 commercial plots. The GIDC had passed the order dated 30.04.2011 and brought the same before the Contempt Court, whereupon the learned advocate appearing for the writ petitioners therein made a statement that in view of the said order, the grievance of the petitioner was satisfied.

18. With the disposal of the contempt petition in view of the above observations, the reliefs claimed by the petitioners in the second round of litigation brought in the year 2012, were not admissible. This aspect of the matter has been completely overlooked by the writ Court while passing the judgment impugned. There is absolutely no whisper in the judgment and order dated 02.05.2011 whereby the contempt petition No. 215 of 2011 was disposed of.

19. It further appears from the judgment impugned that prior to filing of the writ petition of 2012 decided vide judgment impugned dated 18.12.2012, the petitioners herein filed one more writ petition namely Special Civil Application No. 14028 of 2011 decided vide judgment and order dated 20.09.2011 by this Court, directing the respondent authority to consider the representation of the petitioner. When rejected by order dated 13.12.2011, the same was challenged

in Prayer Clause 12(d) of the writ petition out of which the present appeal has arisen.

20. It seems that the order dated 13.12.2011 of rejection of representation of the petitioners pursuant to the judgment and order dated 20.09.2011 in Special Civil Application No. 14028 of 2011, was pressed into service before the Writ Court, only on the premise of the circular dated 26.06.2002 of the GIDC providing for allotment of 3% of the land lost under acquisition to rehabilitate the landlosers. This relief, as noted hereinabove, was not pressed into service in the first round of litigation brought by the original landloser in Special Civil Application No. 7542 of 2002. The challenge to the order of rejection of representation on this ground, therefore, was not maintainable. Even otherwise, in view of the specific stand of the petitioners recorded in the judgment and order dated 02.05.2011 of disposal of the Contempt petition that their grievances were satisfied with the order dated 30.04.2011 passed by the GIDC, no further dispute could have been brought before this Court.

21. In view of the above, finding substance in the submissions made by the learned senior advocate appearing for the GIDC, we reach at an irresistible conclusion that the judgment and order dated 18.12.2012 has been passed in complete ignorance of the observations of this Court recorded in the Contempt order, and hence the same is liable to be set aside. Resultantly, the writ petition giving rise to this appeal, namely Special Civil Application No. 3681 of 2012 deserves to be dismissed as not maintainable.

22. With the above, while setting aside the judgment and order dated 18.12.2012, the Special Civil Application No. 3681 of 2012 stands dismissed being the second writ petition filed for the same cause of action, and as such, the reliefs as prayed for without any surviving cause of action at the relevant point of time, cannot be granted.

23. The Letters Patent Appeal is accordingly allowed. No order as to costs.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

SHRIJIT PILLAI

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: PILLAI SHRIJIT P(HC01400), PRIVATE SECRETARY, at High Court of Gujarat on 16/07/2026 18:53:40