

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION NO. 762 of 2023

With

R/CRIMINAL REVISION APPLICATION NO. 763 of 2023

With

R/CRIMINAL REVISION APPLICATION NO. 764 of 2023

With

R/CRIMINAL REVISION APPLICATION NO. 765 of 2023

With

R/CRIMINAL REVISION APPLICATION NO. 767 of 2023

With

R/CRIMINAL REVISION APPLICATION NO. 768 of 2023

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VIMAL KISHORCHANDRA JOSHI

Versus

STATE OF GUJARAT

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Appearance in CRRA No.762 of 2023:

MR Y.S. LAKHANI, SENIOR ADVOCATE WITH MR. VIPUL B
SUNDESHA(6689) for the Applicant(s) No. 1
for the Respondent(s) No. 2
MS JIRGA JHAVERI APP for the Respondent(s) No. 1

Appearance in CRRA No.763 of 2023:

MR. HARSHIL C DATTANI ADVOCATE for the Applicant(s) No. 1
for the Respondent(s) No. 2
MS JIRGA JHAVERI APP for the Respondent(s) No. 1

Appearance in CRRA No.764 of 2023:

MS SHIVANGI M.RANA ADVOCATE for the Applicant(s) No. 1
for the Respondent(s) No. 2
MS JIRGA JHAVERI APP for the Respondent(s) No. 1

Appearance in CRRA No.765 of 2023:

MR. ALAK A.PANDYA ADVOCATE for the Applicant(s) No. 1
for the Respondent(s) No. 2

MS JIRGA JHAVERI APP for the Respondent(s) No. 1

Appearance in CRRA No.767 of 2023:

MR. RAHUL R.DHOLAKIA ADVOCATE for the Applicant(s) No. 1
for the Respondent(s) No. 2
MS JIRGA JHAVERI APP for the Respondent(s) No. 1

Appearance in CRRA No.768 of 2023:

MR JAL UNWALA, SENIOR ADVOCATE WITH MR. VIMAL A.PUROHIT for
the Applicant(s) No. 1
for the Respondent(s) No. 2
MS JIRGA JHAVERI APP for the Respondent(s) No. 1
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CORAM:HONOURABLE MS. JUSTICE GITA GOPI

Date : 27/06/2023

COMMON ORAL ORDER

1. Senior Advocate Mr. Y.S. Lakhani submitted that the acquisition process was undertaken by way of the provision of National Highways Act, 1956 and in the impugned order of Judicial Magistrate, First Class, Anjar dated 05.06.2023, the process for summons, under sections 204 of the Cr.P.C. has been issued by taking the cognizance of an offence under sections 84, 85 and 87 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act'). Mr. Lakhani stated that Section 105 of 2013 Act exempts National Highways Act, 1956,

falling in fourth schedule, and, thus stated that no provisions of 2013 Act would be applied to the applicants.

2. Senior Advocate Mr. Lakhani states that the complainant was a witness in sale deed executed in 2012, 2014 and 2015, while the complaint is against the acquisition authority, the DILR, Talati, retired Mamlatdar and also against purchasers of the land.

3. Mr. Lakhani, senior advocate has referred to section 28 of the National Highways Authority of India Act, 1988 to state that no prosecution or other legal proceedings shall lie against the authority or any member, officer or employee of the authority for anything, which is in good faith done or intended to be done in this Act or rules or regulations made thereunder.

4. Mr. Jal Soli Unwala, learned senior Advocate along with Advocate Mr. Vimal A.Purohit in Criminal Revision Application No.768 of 2023, states that the

complaint against the acquisition authorities, without any sanction, itself is bad in law. Mr. Unwala stated that in the sale deed of the present applicant, the complainant himself has signed as a witness, and if at all, he has any grudge, then he has to proceed as per his civil rights.

5. Considering the facts and circumstances of the case and the submission so raised, further as stated, the Collector after referring to the facts had communicated to the Chief Secretary of the State, that there is no such case to accord sanction for prosecution, and since there is no sanction on record for prosecuting the government authority, **Rule.**

6. Relief in terms of paragraph no.8(D) in CRRA No.762 of 2023, paragraph no.8(D) in CRRA No.763 of 2023, paragraph no.34(C) in CRRA No.764 of 2023, paragraph no.8(D) in CRRA No.765 of 2023, paragraph no.8(D) in CRRA No.767 of 2023 and paragraph no.33(C) in CRRA No.768 of 2023, are granted.

Direct service is permitted.

Office to keep copy of this order in each matter.

Pankaj

(GITA GOPI,J)