

IN THE S U P R E M E C O U R T O F I N D I A

C I V I L A P P E A L L A T E J U R I S D I C T I O N

C I V I L A P P E A L N O . 5 6 9 2 O F 2 0 0 1

Lokp r a k a s h a n Ltd. .. Appell a n t

Ver s u s

Ka n c h a n b h a i Ka n b h a i Tadv i & Othe r s .. Respo n de n t s

W I T H

C I V I L A P P E A L N O . 6 2 9 9 - 6 3 0 0 O F 2 0 0 1

The Sa n d e s h Li mi t e d .. Appell a n t

Ver s u s

Ra m e s h c h a n d r a Babul a l Sh a h & Othe r s .. Respo n de n t s

J U D G M E N T

Dalvee r Bhan d a r i, J.

1. The se appeal s are directe d again s t the judg m e n t and final order dated 15.6. 2 0 0 1 of the High Cour t of Guja r a t passed in Special Civil Applica t i o n No.7 2 3 of 2 0 0 0 along wi t h Special Civil Applica t i o n Nos. 2 9 9 4 and 6 4 7 0 of 19 9 9 .

2. As the com m o n questio n of la w is invol v e d in these appeal s, there f o r e, these appeal s are being dispose d by a com m o n judg m e n t . The fact s of the Civil Appe al No.5 6 9 2 of 2 0 0 1 are recapit u l a t e d for prope r l y comp r e h e n d i n g the cont r o v e r s y in the case.

3. A daily Ne w s p a p e r na me l y 'Guja r a t Sa m a c h a r ' sta r t e d its publica t i o n of a Guja r a t local daily ne w s p a p e r fro m Ah m e d a b a d in 19 3 2 .

4. An applica ti o n w a s made by the appella n t Lok p r a k a s h a n Limi t e d on 19. 1 9 9 0 to the Municipal Com m i s s i o n e r for gran t of

50 0 0 Sq. Mtrs. of land belongi n g to the Barod a Muni cipal

Corpo r a t i o n comp r i s e d in Fin a l Plot No.1 of To w n Pla n n i n g

Sche m e No.9 situ a t e d at Baroda at a reason a b l e price. It w a s

pra yed in the applica t i o n tha t the Lok p r a k a s h a n daily was

publis hi n g a Guja r a t i Sa m a c h a r daily fro m Baroda for the last seven year s and as it did not have any pre mi se s of its ow n, it w a s opera t i n g fro m a ren ted pre mi se s.

5. The Municipal Com m i s s i o n e r prepa r e d a propos a l for

conside r a t i o n of the Sta n di n g Com m i t t e e for allot m e n t of land of 50 0 0 Sq. Mtrs. at a price to be fixed by the Depu t y To w n Pla n n e r for tra n s f e r of the land.

6. The propos a l w a s conside r e d by the Sta n di n g Com m i t t e e of the Municipal Corpo r a t i o n w h o has passed a resol u t i o n dated 29. 1 1 . 1 9 9 0 beari n g No. 64 6, inte r alia resol vi n g to appro v e the propos a l of the Com m i s s i o n e r . The resol u t i o n of the Sta n di n g

Com m i t t e e w a s placed before the Gene r a l Boar d of the Barod a Municipal Corpo r a t i o n . The r e w a s a propos a l for confi r m a t i o n and accept a n c e of the reco m m e n d a t i o n s of the S t a n di n g

Com m i t t e e and the second propos a l opposi n g the sale of the land to the appell a n t . These propos a l s w e r e conside r e d vide Resol u t i o n s No.7 2 7 and 72 8.

7. It ma y be perti n e n t to men t i o n tha t respon de n t no.1

Ka n c h a n b h a i Ka n b h a i Tadv i w a s an elected Councilo r and he w a s presen t at the meeti n g and both the propos a l s w e r e ta k e n up for conside r a t i o n in his prese n ce and he voted in favo u r of the propos a l s to accept the reco m m e n d a t i o n of the S t a n di n g

Com m i t t e e for sale of the land to the appella n t and oppose d the

propos a l for not selling the land to the appella n t .

8. The appella n t on 5.1.1 9 9 1 addre s se d a com m u n i c a t i o n to the Municipal Com m i s s i o n e r , Barod a Municipal Corpo r a t i o n , inte r alia expres si n g its conse n t to pay the price as ma y be fixed by the Deputy To w n Pla n n e r and also expres se d its conse n t to pay valua t i o n fees on tha t behal f.

9. The Baroda Municipal Corpo r a t i o n on 7.1.1 9 9 1 applied to the Reven u e Depa r t m e n t , Gove r n m e n t of Guja r a t for gra n t of exemp t i o n unde r section 20 of the Urba n Land (Ceiling and Regul a t i o n ) Act, 19 7 6 (her ei n a f t e r refer r e d to as the 'Urb a n Act' ) wi t h respec t to the land sold to the appella n t as well as wi t h respect to the lands comp r i se d in final plot No.1 of to w n plan ni n g sche m e No.9 origin a ll y comp r i se d in reven u e sur v e y No. 94. Exe m p t i o n w a s sough t for othe r lands to be sold to the India n Airli nes, Baroda Urba n Develop m e n t Au t h o r i t y and Guja r a t St a t e Fer t ilize r s Comp a n y Ltd. as well as exemp t i o n w a s sough t wi t h respect to the land to be sold to the appella n t .

10. The Sta t e of Guja r a t on 27. 5. 1 9 9 3 throu gh the Depu t y Secre t a r y , Reven u e Depa r t m e n t , in exercise of po w e r under section 20 of the Act, pur s u a n t to the propos a l made for gra n t of exemp t i o n to the land adme a s u r i n g 50 0 0 Sq. Mtrs. propose d to be sold to the appella n t , gra n t e d exemp t i o n unde r section 20 the Act, subject to certai n condi tio n s stipul a t e d in the said orde r.

11. The Depu t y Com m i s s i o n e r called upon the appella n t to pay an amou n t of Rs.5 5 lak h s to w a r d s the price of the land valued at Rs.1 1 0 0/- per Sq. Mtr.

12. The appella n t , vide lette r dated 26.1 0 . 1 9 9 3 , poin ted out tha t ver y recen t l y an adjoini n g land situ a t e d in the sa me final plot w a s sold to the Barod a Urba n Develop m e n t Au t h o r i t y at

Rs.9 0 0/- per Sq. Mtr. The r e f o r e , conside r i n g the said price an approp r i a t e decision shoul d be ta k e n wi t h respec t to t he

valuation fixed by the Town Planner at Rs.1100/- per Sq. Mtr.

13. The then Administrator of the Baroda Municipal Corporation on 9.11.1993 addressed a communication to the Additional Chief Secretary, Urban Development and the Urban Housing Department pointing out that it was decided in principle to sell 5000 Sq. Mtrs. of land to the appellant for which the State Government had also granted exemption on 27.5.1993. It was pointed out that the nearby land situated in same final plot No.1 adjoining the land sold to the appellant was sold to the Baroda Urban Development Authority at Rs.900/- per Sq. Mtr. The Town Planning Valuation Department had fixed the value at Rs.1100/- per Sq. Mtr., but in view of the representation made by the appellant, it was decided to take necessary steps on that behalf.

14. The appellant was informed by a letter dated 18.12.1993, to deposit an amount of Rs.50 lakhs towards the consideration of the sale price at Rs.1000/- per Sq. Mtr. as no final decision was taken by the State Government with respect to reconsideration of fixation of valuation and the appellant was also asked to give a bank guarantee of Rs.5 lakhs valid for a period of one year. The appellant was also informed that it would be informed about the differential amount to be paid or received by the State Government.

15. The appellant forwarded a Cheque dated 21.12.1993 of Rs.50 lakhs drawn on the Central Bank.

16. The Deputy Municipal Commissioner (Administration) of the Municipal Corporation, Baroda on 23.12.1993 executed a possession receipt and handed over the possession of 5000 Sq. Mtrs. of land comprised in final plot No.1 of Town Planning Scheme No. 9 in accordance with the approval of the same by the

Municipal Commissioner, Baroda Municipal Corporation.

17. A letter was addressed by the Office of the Town Planning Department, State of Gujarat on 5.1.1994 pointing out that the price fixed by the Deputy Town Planner by his letter dated 30.8.1993 at Rs.1100/- per Sq. Mtr. was just and proper.

18. A registered 'Deed of Sale' was entered into between the appellant and the Baroda Municipal Corporation on 17.4.1995. Under the delegation of powers contained under the Bombay Provincial Municipal Corporations Act, the powers of the Commissioner to sign the document of sale are delegated to the Land Estate Officer who had signed the document for sale.

19. It is submitted that the appellant had invested its available funds in setting up other Presses at Surat, Rajkot and Bombay and, therefore, on account of diversion of funds, it had not been possible for the appellant to erect the Press Building on the land in question immediately after the sale deed was executed.

20. One Dinesh B. Shukla, who was petitioner no. 2 before the High Court made representation to the Chief Minister of the State of Gujarat on 12.11.1999, inter alia seeking cancellation of the grant of exemption granted to the appellant by order dated 27.5.1993.

21. A petition being Special Civil Application No.723 of 2000 was filed before the High Court on 20.1.2000 praying for issuance of a writ to set aside the order of the State Government dated 27.5.1993 exempting the land in question under section 20 of the Act and also to set aside the Resolution of the General Board of the Municipal Corporation.

22. The Division Bench of the High Court in the impugned judgment held in favour of the petitioner Corporation before it

and directed the Corporation to pay the amount paid by the appellant with interest. Hence, these appeals.

23. According to the appellant the public interest petition filed against him was an abuse of the process of the court because the appellant was granted approval by the concerned authorities almost a decade ago and thereafter the petition was filed with an oblique motive. This petition deserves to be dismissed on the ground of laches alone.

24. The learned counsel appearing for the appellant relied on the case of *Narmada Bachao Andolan v. Union of India & Others* (2000) 10 SCC 664 and particularly emphasized on the finding of this Court that just because the petition is termed as a public interest litigation does not mean that ordinary principles applicable to litigation will not apply.

25. According to the appellant, the impugned judgment of the High Court is wholly unsustainable in view of the law declared by this Court. There has been no explanation whatsoever for an inordinate delay for more than 10 years. The writ petition filed by the respondent deserves to be dismissed with costs.

26. The appellant next relied on *S.P. Gupta v. President of India & Others* 1981 (Supp) SCC 87, where in it was observed in para 24 as under:

"But we must be careful to see that the member of the public, who approaches the Court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The Court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective..."

27. The appellant also submitted that section 79 of the Bombay Provisional Municipal Corporations Act, 1949, particularly clause (c) thereof, clearly permits the Corporation to sell immovable property even without public auction provided the procedure is

fully followed. In the instant case, the procedure was admittedly fully followed. The price at which the land was sold was Rs.1000/- per Sq. Mtr. and it was not less than the then current market value because the Town Planner had suggested Rs.1100/- per Sq. Mtr., the adjoining plot was auctioned by the Baroda Urban Development Authority at a price of Rs.900/- per Sq. Mtr. Thus the price was also reasonable and not below the market value.

28. The appellant had paid a sum of Rs.50 lakhs @ Rs.1000/- per Sq. Mtr. before this Court and thus, section 79 stands complied with.

29. The appellant also submitted that it is an established news paper since 1932 and this Court has clearly upheld the right of the newspapers under Article 19(1)(a) in a series of judgments including the following: *Indian Express Newspapers (Bombay) Private Ltd. & Others v. Union of India & Others* (1985) 1 SCC 641; *Express Newspapers Pvt. Ltd. & Others v. Union of India & Others* (1986) 1 SCC 133.

30. Therefore, even otherwise the decision to sell the land to the appellant was to subserve the public interest because it is now held that not only the Press has a right guaranteed under Article 19(1)(a) of freedom of speech through publication, but public at large has the right to have information disseminated, as held in the case of *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.* (1995) 5 SCC 139.

31. The learned counsel for the appellant further submitted that the purchase of the land has been totally in consonance of all rules and regulations and with the approval of the concerned authorities. All procedural formalities have been strictly

complied with. Even the sale deed was also executed long back in the year 1995 and this petition was filed after a gap of more than a decade with oblique motive is an abuse of the process of the court.

32. We have heard learned counsel for the parties. The sale of land in favour of the appellant Newspaper, by no stretch of imagination, can be said to be in violation of any rules or regulations. In the facts and circumstances of the case, in our considered view, the impugned judgment of the High Court cannot be sustained.

33. Consequently, the appeals are allowed and the impugned judgment of the High Court is set aside. In the facts and circumstances of this case, we direct the parties are directed to bear their own costs.

....J. (Dalveer Bhandari)

....J. (Harjit Singh Bedi)

New Delhi;  
August 27, 2009.

IT EM NO.1 A COUR T NO.6 S E C T I O N IX  
(For Judgment)  
S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

C I V I L A P P E A L N O . 5 6 9 2 O F 2 0 0 1

LOK P R A K A S H A N L T D . Appell a n t ( s )  
V E R S U S

K A N C H A N B H A I K A N B H A I T A D V I A N D O R S . Respo n d e n t ( s )  
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WITH  
C I V I L A P P E A L N O S . 6 2 9 9 - 6 3 0 0 O F 2 0 0 1

S A N D E S H L T D . Appell a n t ( s )  
V E R S U S

R A M E S H C H A N D R A B A B U L A L S H A H A N D O R S . Respo n d e n t  
( s )

Date: 27/08/2009

This matter was called on for pronouncement of judgment today.

For Appellant (s)

Mr. Anip Sachthey, Adv.

Mrs. V.D. Khanna, Adv.

For Respondent (s)  
for

Mr. Manu Nair, Adv.

M/s. Suresh A. Shroff & Co, Adv.

Mr. Shrish Kumar Misra, Adv.

Ms. Hemanthika Wahi, Adv.

Hon'ble Mr. Justice Dalveer Bhandari pronounced the judgment of the Bench comprising of his Lordship and Hon'ble Mr. Justice Harjit Singh Bedi.

The appeals are allowed and the impugned judgment of the High Court is set aside in terms of the signed judgment. In the facts and circumstances of this case, the parties are directed to bear their own costs.

(A. S. BISH T )  
COUR T M A S T E R

(N E E R U B A L A V I J )  
COUR T M A S T E R

(Reportable signed judgment is placed on the file)