

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5865-67 OF 2014
(Arising out of SLP(C) Nos.10930-10932 of 2008)

Custodian of Evacuee Properties ... Appellants

Versus

Amjadali Gazanfarali Bukhari & Ors. ... Respondents

WITH

CIVIL APPEAL NOS. 5874-76 OF 2014
(Arising out of SLP(C) Nos.22365-22367 of 2008)

CIVIL APPEAL NOS. 5868-70 OF 2014
(Arising out of SLP(C) Nos.20797-20799 of 2008)

AND

CIVIL APPEAL NOS. 5871-73 OF 2014
(Arising out of SLP(C) Nos.20801-20803 of 2008)

JUDGMENT

ANIL R. DAVE, J.

1. Leave granted.

Signature Not Verified

2. Being aggrieved by the judgment dated 1 st

Digitally signed by
Jayant Kumar Arora
Date: 2014.07.16
17:05:37 IST
Reason:

November, 2007 delivered in Civil Application
No.1437 of 2007 with Civil Application No. 1438 of
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2007 with Civil Application No. 1439 of 2007 in
Misc. Civil Application No. 2706 of 2006 in Special
Civil Application No. 15239 of 2006 by the High
Court of Gujarat at Ahmedabad, these appeals have
been filed by some of the original respondents.

3. At the time of hearing of these appeals, on behalf
of the appellants several arguments had been
advanced. Most of them were in the nature of

preliminary objections because according to the learned counsel appearing for the appellants, the original petition, Special Civil Application No.15239 of 2006 had been filed by way of a Public Interest Litigation by Shri Nirav Shah after considerably long period and that too when the aggrieved person had already filed a petition on the same subject matter. It had also been submitted that the PIL ought not to have been entertained by the High Court because the one who had interest in the litigation had already filed Special Civil Application No.21996 of 2005 and the said fact had also been referred to in the PIL

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filed by Shri Nirav Shah. It had been, therefore, prayed that the impugned judgment deserved to be quashed.

4. On the other hand, the learned counsel appearing for the contesting respondents had supported the impugned judgment delivered by the High Court and had submitted that the appeals deserved dismissal.
5. Before dealing with the facts of the case, we think it necessary to note that the main petition, viz. Special Civil Application No. 15239 of 2006 had been filed by Shri Nirav Shah, an advocate, by way of a Public Interest Litigation. It is also pertinent to note that prior to filing of the said petition, Special Civil Application No.21996 of 2005 had been filed by Shri Bukhari, respondent no.1 herein, who was a person interested in the property in question and the said fact was known to Shri Shah, as pendency of the said petition had been referred to in Special Civil Application

No.15239 of 2006. There appears to be
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similarities in the prayers made in both these petitions.

6. Special Civil Application No.15239 of 2006 had been finally disposed of on 26 th September, 2006 by the High Court of Gujarat. While disposing of the said petition, a direction had been given to the State of Gujarat and the said direction had been duly complied with by the State of Gujarat by passing a Memorandum dated 21st December, 2006.
7. Immediately upon disposal of Special Civil Application No.15239 of 2006, on or about 9 th October, 2006, Misc. Civil Application No. 2706 of 2006 had been filed in the said disposed of petition for some interim protection and directions. Moreover, three more applications were also filed in the said proceedings thereafter. When Misc. Civil Application No. 2706 of 2006 was notified for hearing, the entire petition was re-heard by the High Court, though it was not within the scope of the application for which Misc.
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Civil Application No. 2706 of 2006 had been filed and without looking into the fact that the final direction given in Special Civil Application No.15239 of 2006 had already been complied with under Memorandum dated 21st December, 2006 by the State of Gujarat, the impugned judgment was delivered by the High Court.
8. Looking at the peculiar facts of the case, we do feel that an effort had been made to revive or re-hear the Special Civil Application, which had already been finally disposed of, by filing Misc.

Civil Application No. 2706 of 2006. Prayer in the said Misc. Application was that status quo should be maintained till the State of Gujarat takes final decision in pursuance of the final order passed in Special Civil Application No.15239 of 2006. The High Court had exceeded its jurisdiction by virtually giving a second hearing in a petition which had been disposed of earlier merely because Misc. Civil Application No.2706 of 2006 had been filed only for some interlocutory orders

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and that application had also become infructuous because even the final direction given in the main petition had been complied with.

9. In our opinion, the present case is nothing but an abuse of process of law. The matter has been made bulky by placing several orders and records which are really not relevant.

10. In pursuance of the final direction, the Government of Gujarat had issued a Memorandum dated 21st December, 2006, whereby the Government of Gujarat had passed a detailed speaking order narrating all relevant facts and had come to the final conclusion that the entire matter had become infructuous and nothing further was required to be done. The Memorandum referred to hereinabove has attained finality as it appears that none has challenged the same so far.

11. At the time when the said Misc. Application was heard, the State of Gujarat had already passed a final order under Memorandum dated 21st

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December, 2006 and therefore, the said Misc.

Application had already become infructuous. In spite of the said fact, without taking into account a well reasoned order, the High Court went on to pass the impugned order dated 1st November, 2007.

12. The High Court of Gujarat had virtually reopened the case and taken a decision without taking into account the facts duly recorded in the Memorandum issued by the Government on 21 st December, 2006.

13. It is very strange as to how after disposal of the case, in a Misc. Application, which had been filed only for the purpose of maintenance of status quo during the pendency of some proceedings, the Court heard the matter again and that too when the said Misc. Application had become infructuous.

14. In our opinion, final decision had already been taken by the State of Gujarat in pursuance of the direction given by the High Court of Gujarat in

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Special Civil Appln. No. 15239 of 2006 on 21 st December, 2006 and therefore, nothing further was required to be done by the High Court. We are, therefore, of the view that Misc. Civil Application No. 2706 of 2006 and subsequent Civil Applications filed in Special Civil Application No. 15239 of 2006 should not have been entertained by the High Court after the Government of Gujarat had issued Memorandum dated 21st December, 2006.

15. In view of the aforesaid set of circumstances, the impugned order dated 1st November, 2007 passed in a Public Interest Litigation is quashed and set aside.

16. We may also record the fact that even Shri Bukhari, who was claiming some interest in the property in question and who had filed Special Civil Application No.21996 of 2005 had withdrawn the said petition on 18th December, 2009, after the Memorandum dated 21st December, 2006 was passed without challenging

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the said Memorandum and in view of the said fact also this Public Interest Litigation deserves to be brought to an end.

17. The appeals are allowed with no order as to costs.

.....J
(ANIL R. DAVE)

.....J
(DIPAK MISRA)

New Delhi;
June 30, 2014.

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REVISED

ITEM NO.1A COURT NO.6 SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).
10930-10932/2008

CUSTODIAN OF EVACUEE PROPERTIES Petitioner(s)

VERSUS

AMJADALI GAZANFARLI BUKHARI & ORS. Respondents(s)

WITH

SLP(C) No. 20797-20799/2008
SLP(C) No. 20801-20803/2008
SLP(C) No. 22365-22367/2008

Date : 30/06/2014 These petitions were called on for Judgment today.

For Petitioner(s) Ms. Hemantika Wahi ,Adv.
Mr. Nikhil Goel , Adv.
Mr. Rutwik Panda , Adv.
Ms. Hemantika Wahi , Adv.

For Respondent(s) Mr. Shiv Mangal Sharma, Adv.
Mr. Ankit Shah, Adv.
Mr. S.G. Shah, Adv.
Mr. Shray Kapoor, Adv.

Mr. Sitesh Narayan Singh, Adv.
Mr. Vivek R. Mohanty, Adv.
Ms. Anjali Chauhan, Adv.
Mr. Akshat Anand, Adv.

Mr. Syed Ali Ahmad, Adv.
Mr. Syed Tanweer Ahmad, Adv.
Mr. S. S. Bandhyopadhyay, Adv.
Mr. Mohan Pandey, Adv.

Mr. Jayesh Gaurav, Adv.
Mr. T. Mahipal, Adv.

Ms. Sharmila Upadhyay, Adv.
Mr. Sunil Kumar Jain, Adv.

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Hon'ble Mr. Justice Anil R. Dave pronounced the
Non-Reportable Judgment of the Bench comprising His
Lordship and Hon'ble Mr. Justice Dipak Misra, J.

Leave granted.

Application for impleadment is rejected.

The Civil Appeals are allowed.

(Jayant Kumar Arora)
Sr. P.A.

(Sneh Bala Mehra)
Assistant Registrar

(Signed Non-Reportable Judgment is placed on file)