

ITEM NO.1

COURT NO.11

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 (Civil) No(s).602-603/2009

(From the judgement and order dated 16/12/2008 in SCA No. 2422/2008 with SCA No. 2490/2008 of The HIGH COURT OF GUJARAT AT AHMEDABAD)

MUKESH BABUBHAI DABGAR & ORS.

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T., permission to file Additional documents, c/delay in filing affidavit and prayer for Interim relief and office report)

Date: 11/04/2011 These Petitions were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Huzefa Ahmadi, Adv.
Mr. Ejaz Maqbool, Adv.
Ms. Sakshi Banga, Adv.
Ms. Garima Kapoor, Adv.

For Respondent(s) Mr. Suresh Shelot, Sr. Adv.
Ms. Hemantika Wahi, Adv.
Mr. Ashwini Kunor, Adv.

UPON hearing counsel the Court made the following
O R D E R

The petitioners are aggrieved by the order Passed by the Division Bench of the Gujarat High Court Whereby Special Civil Application Nos. 2422 and 2490 of 2008 filed by them were disposed of by relying upon the order passed by the Subordinate Bench. Paragraphs 4 to 8 of the impugned order read as under:

"4. The learned advocate appearing for the petitioners submitted that only yesterday the petitioners are able to receive some information from the respondent Ahmedabad Municipal Corporation showing that the names of some of the petitioners in these petitions were included in the information gathered by the AMC at the time of making survey in the year 1976. The learned advocate for the petitioners submitted that, that being so, the Corporation, as per its policy, that, 'the person, who is in possession of a place prior to 1976 if required to be dispossessed, is to be provided an alternative accommodation.' The learned advocate for the petitioners requested for time, but the same is

declined, in view of the statement made by the learned Senior Advocate Mr. Prashant G. Desai with Mr. Dhaval G. Nanavaty appearing for AMC.

5. Learned Senior Advocate appearing for AMC stated that, 'the names of all the petitioners of both these petitions will be registered by the Corporation and they will be permitted to place before the Corporation all available material in support of their claim that they were on the place in the year 1976, including that of the one which they have received by way of communication under Right to Information Act, which is dated 24.11.2008, but stated to have been received only yesterday, i.e. 15.12.2008.

6. The learned Senior Advocate for AMC further states that the decision of the Government in the other group of petitions, being Special Civil Application No.23637 of 2007 and other matters will be followed in the case of petitioners of both these petitions. The learned Senior Advocate clarified that if it comes to give alternative accommodation to the persons, who were in possession of the place till 1995, the case of the petitioner will also be considered in similar manner.

7. Learned Senior Advocate for AMC submitted that, that being so, a similar order, as is passed by the First Court, be passed in these matters also.

8. Since the Government is already directed by the First Court to pass final orders on the applications filed by the Commissioner within a period of four months from the date of receipt of copy of the order, after giving notice to the petitioners and after giving an opportunity of hearing to the petitioners as well as the Corporation and other affected parties, if any, no such directions are required to be reiterated. However, it is clarified that the decision of the Government will be made applicable to the petitioners as well and the benefits will be given to the petitioners at par with the petitioners of those other petitions.

9. In view of this statement made by the learned Senior Advocate for AMC, these petitions are disposed of."

On 31.1.2011, this Court had, after hearing the counsel for the parties, passed the following order:

"Heard learned counsel for the parties and perused the record including order dated 25.10.2010 passed by the Division Bench of the Gujarat High Court in S.C.A. No.12331 of 2009 and Regulations for Rehabilitation and Redevelopment of the Slums, 2010.

Prima facie, we are of the view that the State Government and the Municipal Corporation should prepare an action plan and scheme

for rehabilitation of all the slum dwellers, who are living in the slums in the city of Ahmedabad. Learned counsel for the State of Gujarat and the Ahmedabad Municipal Corporation request eight weeks' time to file affidavits on behalf of their respective clients detailing the steps proposed to be taken by the State Government and the Municipal Corporation for rehabilitation of all slum dwellers irrespective of cut off date specified in the policies framed in 1976 and 1995. For further arguments, the case be listed on 28.3.2011."

In compliance of the direction given by the Court, Shri N.G. Hareja, Deputy Secretary to the Government of Gujarat filed affidavit dated 17.3.2011. Captain Dilipkumar J. Mahajan, Deputy Commissioner Municipal Corporation, Ahmedabad Municipal Corporation also filed affidavits dated 17.3.2011 and 1.4.2011.

A perusal of the affidavits of Shri N.G.Hareja and Captain Dilipkumar J. Mahajan shows that the State Government has framed a scheme titled "Rehabilitation and Redevelopment of the Slums-2010" for providing houses to the slum dwellers.

In the affidavit filed on behalf of the Ahmedabad Municipal Corporation, it has also been stated that the petitioners will be rehabilitated subject to the availability of additional land and that they shall not be evicted from the present sites till their rehabilitation.

In response to the Court's query, learned counsel representing the State of Gujarat gave out that as and when the Corporation approaches the Government, additional land will be placed at its disposal for the purpose of rehabilitation of the petitioners.

In view of the above, the special leave petitions are disposed of as infructuous.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master