

# SUPREME COURT OF INDIA

Lokprakashan Ltd.

Vs.

Kanchanbhai Kanbhai Tadvi

C.A.No.5692 of 2001

(Dalveer Bhandari and Harjit Singh Bedi JJ.)

27.08.2009

## JUDGMENT

### **Dalveer Bhandari, J.**

1. These appeals are directed against the judgment and final order dated 15.6.2001 of the High Court of Gujarat passed in Special Civil Application No.723 of 2000 along with Special Civil Application Nos.2994 and 6470 of 1999.

2. As the common question of law is involved in these appeals, therefore, these appeals are being disposed by a common judgment. The facts of the Civil Appeal No.5692 of 2001 are recapitulated for properly comprehending the controversy in the case.

3. A daily Newspaper namely 'Gujarat Samachar' started its publication of a Gujarat local daily newspaper from Ahmedabad in 1932.

4. An application was made by the appellant Lokprakashan Limited on 19.1.1990 to the Municipal Commissioner for grant of 5000 Sq. Mtrs. of land belonging to the Baroda Municipal Corporation comprised in Final Plot No.1 of Town Planning Scheme No.9 situated at Baroda at a reasonable price. It was prayed in the application that the Lokprakashan daily was publishing a Gujarati Samachar daily from Baroda for the last seven years and as it did not have any premises of its own, it was operating from a rented premises.

5. The Municipal Commissioner prepared a proposal for consideration of the Standing Committee for allotment of land of 5000 Sq. Mtrs. at a price to be fixed by the Deputy Town Planner for transfer of the land.

6. The proposal was considered by the Standing Committee of the Municipal Corporation who has passed a resolution dated 29.11.1990 bearing No. 646, inter alia resolving to approve the proposal of the Commissioner. The resolution of the Standing Committee was placed before the General Board of the Baroda Municipal Corporation. There was a proposal for confirmation and acceptance of the recommendations of the Standing Committee and the

second proposal opposing the sale of the land to the appellant. These proposals were considered vide Resolutions No.727 and 728.

7. It may be pertinent to mention that respondent no.1 Kanchanbhai Kanbhai Tadvi was an elected Councilor and he was present at the meeting and both the proposals were taken up for consideration in his presence and he voted in favour of the proposals to accept the recommendation of the Standing Committee for sale of the land to the appellant and opposed the proposal for not selling the land to the appellant.

8. The appellant on 5.1.1991 addressed a communication to the Municipal Commissioner, Baroda Municipal Corporation, inter alia expressing its consent to pay the price as may be fixed by the Deputy Town Planner and also expressed its consent to pay valuation fees on that behalf.

9. The Baroda Municipal Corporation on 7.1.1991 applied to the Revenue Department, Government of Gujarat for grant of exemption under section 20 of the *Urban Land (Ceiling and Regulation) Act, 1976* (hereinafter referred to as the 'Urban Act') with respect to the land sold to the appellant as well as with respect to the lands comprised in final plot No.1 of town planning scheme No.9 originally comprised in revenue survey No. 94. Exemption was sought for other lands to be sold to the Indian Airlines, Baroda Urban Development Authority and Gujarat State Fertilizers Company Ltd. as well as exemption was sought with respect to the land to be sold to the appellant.

10. The State of Gujarat on 27.5.1993 through the Deputy Secretary, Revenue Department, in exercise of power under section 20 of the Act, pursuant to the proposal made for grant of exemption to the land admeasuring 5000 Sq. Mtrs. proposed to be sold to the appellant, granted exemption under section 20 the Act, subject to certain conditions stipulated in the said order.

11. The Deputy Commissioner called upon the appellant to pay an amount of Rs.55 lakhs towards the price of the land valued at Rs.1100/- per Sq. Mtr.

12. The appellant, vide letter dated 26.10.1993, pointed out that very recently an adjoining land situated in the same final plot was sold to the Baroda Urban Development Authority at Rs.900/- per Sq. Mtr. Therefore, considering the said price an appropriate decision should be taken with respect to the 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 *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 *Others*<sup>1</sup>, wherein 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 newspaper 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*<sup>2</sup>; *Express Newspapers Pvt. Ltd. Others v. Union of India Others*<sup>3</sup>.

30. Therefore, even otherwise the decision to sell the land to the appellant was to sub-serve the public interest because it is now held that not only the Press have 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.*<sup>4</sup>.

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.

<sup>1</sup>1981 (Supp) SCC 87

<sup>2</sup>(1985) 1 SCC 641

<sup>3</sup>(1986) 1 SCC 133

<sup>4</sup>(1995) 5 SCC 139