

ITEM NO.31 Court 1 (Video Conferencing)

SECTION III

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).896/2012

(Arising out of impugned final judgment and order dated 14-12-2010 in WP No.5/2010 passed by the High Court of Gujarat at Ahmedabad)

MAULIN J BAROT

Petitioner(s)

VERSUS

THE STATE OF GUJARAT & ORS.

Respondent(s)

IA No.65062/2020 - APPLICATION FOR PERMISSION
IA No.62510/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No.62511/2020 - EXEMPTION FROM FILING AFFIDAVIT
WITH
T.C.(C) No. 298/2017 (XVI-A)
(FOR ADMISSION)

Date : 08-10-2021 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Mr. Prashant Bhushan, AOR
Mr. Pranav Sachdeva, Adv.
Ms. Cheryl Dsouza, Adv.

For Respondent(s) Mr. Tushar Mehta, SG
Mr. Harish Pandey, AOR
Mr. Kanu Agrawal, Adv.

Mr. Mishra Saurabh, AOR

Mr. Manoj K. Mishra, AOR
Mr. Umesh Dubey, Adv.
Mr. Prateek Som, Adv.
Mr. Alok Pandey, Adv.
Mr. Sudhir S. Rawat, Adv.

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

The Court is convened through Video Conferencing.

I.A.No.62510/2020 In SLP(C)No.896/2012

I.A. No.62510 of 2020 has been filed by one Mr. Sunil

Oza, who is not a party to these proceedings but appears to be one of the allottees, seeking appropriate orders/directions and consequential modification of the order dated 02.11.2012 whereby this Court had directed that until the disposal of *Suo Motu* proceedings before the High Court of Gujarat ".....no further allotments or permission to transfer the plots already allotted under the Government Resolutions in question, would be granted without the leave of the High Court.....".

Subsequently, the *Suo Motu* proceedings pending before the High Court of Gujarat which were directed to be decided in a time bound manner, were also transferred to this Court on 20.08.2017 and tagged with the Special Leave to Appeal (C) No.896/2012. The challenge in both the matters pertains to discretionary allotment of plots to MLAs/MPs and/or other high-level functionaries in Gandhi Nagar at concessional rates.

The above stated I.A. came up for hearing on 16.09.2021 and taking note of prayer (a), we directed the State of Gujarat to prepare a draft mechanism which would ensure that the transfer of plots, shall be made on a non-profit basis.

In deference to the order dated 16.09.2021, State of Gujarat has placed on record a Draft Scheme along with an affidavit dated 06.10.2021. The relevant extracts of the Draft Scheme are as follows: -

"RESOLUTION:-

Therefore, the Government of Gujarat decided to constitute a high level committee consisting of following officers for the purpose:

- (i) The Chief Secretary, State of Gujarat
- (ii) Addl. Chief Secretary (Revenue)
- (iii) Secretary, Gujarat Legislative Assembly
- (iv) Secretary, Urban Development Department
- (v) Secretary, Roads and Buildings

(1) The aforesaid committee will examine and permit transfer of plots by the allottees/on behalf of the allottees in below mentioned cases after being satisfied about the genuine-

ness of existence of below mentioned grounds:-

- a. When an allottees or an heir/legal representative of the allottee wants to transfer his/their respective plot/s for some public purpose/philanthropic purpose/charity to any charitable trust and/or any such entity without any monetary consideration. In such cases, no premium is to be charged.
- b. When original allottee has ceased to hold the position due to which an allotment of plot was made to him/her and 15 years have elapsed thereafter.
- c. To add name of the spouse as joint holder of the property
- d. When the original allottee has died and his spouse or legal heirs is to be included.
- e. When the plot holder after retirement or seizing the office want to settle elsewhere either in his hometown or with his family/children for personal care in old age."

The Draft Scheme further postulates that transfer under Clause (1)(e), as reproduced above, shall be permitted only on the payment of premium as proposed in para 3 thereof.

We have heard Mr. Prashant Bhushan, learned counsel appearing on behalf of the petitioner and Mr. Tushar Mehta, learned Solicitor General appearing on behalf of the State of Gujarat and perused the Draft Scheme. Mr. Prashant Bhushan does not have any serious objection to the mode of transfer(s) as proposed in Clause (1)(a), (1)(c) and (1)(d) of the Draft Scheme, as these transfers do not contemplate any profiteering by the allottees. He, however, submits that permission of transfer under Clause (1)(b) and (1)(e) of the Draft Scheme is directly in opposition to the issues raised in the main case/*suo motu* proceedings.

In light of the above and to obviate the hardship likely to be faced by the bona fide non-profiting transferors, we modify the order dated 02.11.2012 to the limited extent that the High-Level Committee as proposed in the Draft Scheme may permit the transfer of plots under Clause 1(a), (1)(c) and (1)(d) with an express stipulation that such transfer shall abide by the final outcome in Special Leave to Appeal (C) No.896/2012. So far as transfers under Clause (1)(b) and (1)(e) of the Draft Scheme are concerned, the same may be considered at a later date.

IA is disposed of in the above terms.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(R.S. NARAYANAN)
COURT MASTER (NSH)