

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NOS. 7293-7294 OF 2019**
(Arising out of SLP (Civil) Nos.22696-22697 of 2014)

Pratapbhai Khodabhai Rawal & Anr.Appellant(s)

Versus

M/s Bharat Sanchar Nigam Ltd. Respondent(s)
& Ors.

ORDER

Leave granted.

2. These appeals are filed by the respondents No.4 and 5 in the Letters Patent Appeal bearing No.1460/2009 before the High Court of Gujarat at Ahmedabad. The respondent No.1 herein (hereinafter referred to as 'BSNL' for convenience) was the respondent No.1 in the said appeal before the High Court. Though the State of Gujarat and the other official respondents are parties to the proceedings, the dispute essentially is between the appellants herein and the BSNL. The High Court by the order dated 24.04.2014 has allowed the appeal filed by the BSNL and directed allotment of the land to which the appellants herein had

laid claim to BSNL and consider allotment of alternate plots to the appellants herein subject to availability of land. Since according to the appellants the said order was passed without proper opportunity, an application in M.C.A.No.1388/2014 was filed seeking recall of the order dated 24.04.2014 passed in L.P.A.No.1460/2009 and to restore the L.P.A. No.1460/2009 for consideration. The said application for restoration was dismissed by the order dated 08.05.2014. Hence the appellants are before this Court assailing the both, order dated 24.04.2014 passed in L.P.A.No.1460/2009 and the order dated 08.05.2014 in M.C.A. No.1388/2014. Since the main order dated 24.04.2014 would require consideration, it would not be necessary to go into the details of the order dated 08.05.2014 which is a consequential order.

3. The brief facts leading to the case are that in the year 1985 the BSNL made an application to the District Collector, Gandhi Nagar for allotment of land situate in village of Mansa, Taluka-Vijapur, Gujrat State. The land measuring 2545.60 sq.meters bearing Survey No.663 was allotted to BSNL in the year 1988. The BSNL having taken possession had put up the construction of Telephone Exchange on the said land. The main entry gate was

being used by the public, the staff members and also the heavy motor vehicles of the Department as an approach from the RCC road. According to the case of BSNL, when this was the position the appellants herein started erecting structures adjoining to the main entry gate claiming under the orders dated 04.01.2002 and 15.01.2002 passed by the District Collector, Gandhi Nagar, Gujarat. The BSNL is stated to have foiled such attempt and made a representation to the District Collector, Gandhi Nagar, indicating that they are ready to purchase the land at the entrance of building owned by BSNL. Simultaneously, the BSNL filed a writ petition before the High Court in Special Civil Application No.3918/2002 challenging the orders dated 04.01.2002 and 15.01.2002 under which the appellants herein claimed right and interest in the land for which BSNL had objection. The said writ petition was disposed of through the order dated 10.04.2002 directing the official respondents to finalise the issue as to whether the land allotted to the appellants herein should continue or as to whether the same is to be cancelled on the ground that the said land is required as an entrance to the Telephone Exchange premises.

4. On consideration the official respondents through the

communication dated 17.08.2002 informed BSNL that they have decided to grant the subject land to the appellants herein. The BSNL, therefore, assailed such action by filing another writ petition in Special Civil Application No.6840/2002. The said petition was disposed of by the order dated 17.12.2002 holding that the alternate remedy is to be availed. The BSNL thus filed a Revision Application before the competent authority which was rejected by the District Collector, Gandhi Nagar. Hence, BSNL once again approached the High Court in Special Civil Application No.3312/2003. On consideration the said writ petition was dismissed by the order dated 17.06.2009. In that view, the appeal in L.P.A.No.1460/2009 was filed. The Division Bench of the High Court while considering the matter had taken note of the requirement of the subject land as claimed by BSNL for expansion and for passage to the Telephone Exchange building.

5. In the said process it was taken note that when the main petition was taken up for consideration in the year 2003, the High Court had directed the BSNL to deposit the market value of the subject land amounting to Rs.4,20,000/- before the Registry of the High Court. The BSNL had accordingly deposited the amount and the status-quo was maintained. The High Court had further

taken note that the land in Survey No.663 enabling the construction of the Telephone Exchange was allotted in the year 1988. Subsequent thereto, in the year 2001, the State Government allotted two small portion of land measuring approximately 20 sq.metres each to the appellants herein. By such time the Telephone Exchange had been constructed and was functioning. The small portions of land allotted to the appellants is adjoining the main entry gate of the Telephone Exchange. Thus, taking note of the requirement of BSNL in public interest so as to have free access to the Telephone Exchange, the Division Bench of the High Court was of the opinion that the official respondents ought to have allotted alternate lands to the appellants herein. In that view the allotment orders dated 04.01.2002 and 15.01.2002 and also the order dated 24.03.2003 passed by the Revisional Authority and the order dated 17.06.2009 passed in Special Civil Application No.3312/2003 by the learned Single Judge were set aside and the District Collector, Gandhi Nagar was directed to withdraw the amount deposited before the Court and allot the subject land to BSNL. It was further directed that the State Government shall also allot alternative land to the appellants herein in the vicinity where the

plots were allotted to them earlier, subject to availability of land and after hearing them. The appellants, therefore, claiming to be aggrieved by the said order are before this Court.

6. This Court having entertained these appeals and having heard the learned counsel for the parties had through the order dated 30.06.2016 (corrected by the order dated 28.02.2019) indicated that the parties had not so far attempted to try for a settlement by offering any alternative plot to the appellants which would be to their satisfaction. In that view the process of an amicable resolution to the dispute was initiated. Further by order dated 30.11.2018 the State of Gujarat was directed to file its response on affidavit and indicate the steps taken by the State in identifying the suitable place for the appellants herein. On such initiative taken by this Court, the parties have ultimately identified the alternate land to be given to the appellants, in lieu whereof the appellants would vacate the plots which had been allotted to them earlier so that the same would be used as the entrance to the Telephone Exchange without hindrance. In that regard, a report dated 30.08.2019 is filed by the District Collector, Gandhi Nagar, when the matter was taken up for consideration on 13.09.2019. As per the report the subject land which was in the occupation of

the appellants bears City Survey No.6606, measures 20.13 sq.metres and City Survey No.6607, measures 20.13 sq.metres, which in all measures 40.26 sq.metres. Actual measurement of the existing land is 42.95 sq.metres, which would be available to BSNL as an approach to the Telephone Exchange. The appellants have been removed from possession thereof on 07.03.2019 and the land has been handed over to the City Survey Superintendent. In between the plot bearing No.6607 and the plot bearing SR.No.6581 there is an open area which could be formed as two plots for the appellants herein. The same is shown as "A" in 'ABCD' in the sketch prepared and annexed to the report. The respondents further indicate that the appellants herein agreed to shift to the said land mentioned as "A" in ABCD detailed in the sketch. The sketch is made a part of this order for better understanding of the location of the plots.

7. The relevant portion of the report dated 30.08.2019 reads as hereunder:

"As per the directions of the Hon.Supreme Court, vide this office letter dated 01/05/2019 reported to Ms. Hemantika Wahi that the following facts have been observed by Maintenance Surveyor, officer of the City Survey Superintendent, Mansa keeping the Bharat Sanchar Nigam Limited and others petitioners, upon measuring of the land located adjacent to City Survey No.6581 of Mouje:Mansa, Ta.Mansa marked as "A" of

open land ABCD and land allotted to Petitioners i.e. City Survey No.6606 and 6607.

Upon measurement by Maintenance Surveyor-2, officer of the City Survey Superintendent, Mansa on 29.04.2019, it has been observed that this land is located on the North side of the Bharat Sanchar Nigam Limited's City Survey No.663, the land presently possessed by the petitioners City Survey No.6606 area is 20.13 sq.meter and City Survey No.6607 area is 20.13 sq. meter as mentioned in property card. The combined area of both City Survey No. is 40.26 sq.meter. Whereas area marked "A" in ABCD area previously mentioned in the map is 42.95 sq.meter.

Thus, the measurement of the both land parcels are mentioned as per order of the Hon.Supreme Court, mentioned as "A" in ABCD, which was vacated recently is 42.95 sq.meters and total measurement of City Survey No.6606 & 6607 which was allotted to petitioners is 40.26 sq.meters. Hence there is sufficient land available for the petitioners if they may be shifted on area "A" as mentioned in between ABCD. There is brick construction done on City Survey No.6606 & 6607 by petitioners.

Jantri rates (Circle rates) of the land mentioned above are obtained from Deputy Collector, Stamp duty Valuation, Gandhinagar, it is mentioned by letter dated 01-05-2019, the Jantri rate (Circle rates) per sq.meter is Rs.2350. A copy of the same is attached herewith. In addition if there would be question of any land allotment or exchange of the land, it will be done as per the policy of the Government. Copy of the same is attached herewith.

The length of present BSNL Gate as mentioned in blue colour is measured 5.10 meters.

A panchnama was done on 30/08/2019 in presence of Circle Officer, Mansa, City Survey Superintendent, Mansa & Chief Officer, Mansa and it

was mentioned that on east side of City Survey No.6607 today land is open.

Moreover a statement is recorded, before Circle Officer, Mansa, City Survey Superintendent, Mansa & Chief Officer, Mansa, of petitioners (1) Pratapbhai Khodabhai Rawal (2) Bhikhabhai Khodabhai Rawal (a copy attached). In that statement petitioners have agreed to shift on above mentioned vacated land mentioned as "A" in ABCD detail."

8. Since the above aspects have been arrived at on mutual understanding between the parties, the allotment and utilisation of the land is to be made in such manner. At this stage, the submission of the learned senior counsel for the appellants that they be provided some financial succour to enable them to shift and set up their business in the alternate land provided to them is also to be taken note and appropriately addressed.

9. In view of the above the instant appeals are required to be disposed of in terms of the understanding reached between the parties and in the background of the report and the sketch filed herein.

10. Hence the following order:

(i) The plots bearing Nos.6606 and 6607 are directed to be allotted to the BSNL. In lieu thereof the appellants shall be allotted the area shown as "A" in ABCD in the sketch attached to the report in equal

proportion as forming as two plots. The difference in price shall be borne and paid by the BSNL;

(ii) The BSNL shall further pay the sum of Rs.50,000/- each to the two appellants herein as compensation to enable them to put up structures on the alternate plots so as to shift their business from the plot wherein they were in occupation earlier. The payment shall be made within two weeks from the date all parties receive possession of the respective plots;

(iii) Money paid by the appellants (Rs.1,61,041/- each total Rs.3,22,082/-) shall be adjusted for the land now allotted to the appellants.

(iv) If any approval is necessary for clearing the area for putting up structures in the open alternate plot allotted to the appellants, the official respondents shall take necessary steps for granting approval in that regard;

(v) In terms of the above, the order dated 24.04.2014 passed by the High Court of Gujarat in L.P.A.No.1460/2009 stands modified and these appeals stand disposed of with no order as to costs.

All pending applications stand disposed of.

.....**J.**
(R. BANUMATHI)

.....**J.**
(A.S. BOPANNA)

New Delhi,
September 16, 2019

ITEM NO.57

COURT NO.6

SECTION III

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

Petition(s) for Special Leave to Appeal (C) No(s).22696-22697/2014
(Arising out of impugned final judgment and order dated 08-05-2014 in MCA No. 1388/2014 08-05-2014 in LPA No. 1460/2009 08-05-2014 in SCA No. 3312/2003 24-04-2014 in LPA No. 1460/2009 24-04-2014 in SCA No. 3312/2003 passed by the High Court Of Gujarat At Ahmedabad)

PRATAPBHAI KHODABHAI RAWAL & ANR. Petitioner(s)

VERSUS

M/S. BHARAT SANCHAR NIGAM LTD.& ORS. Respondent(s)

[FOR ORDERS]

Date : 16-09-2019 These petitions were called on FOR ORDER today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Jayant Muthuraj, Sr. Adv.
Mr. P. S. Sudheer, AOR
Mr. Rishi Maheshwari, Adv.
Mrs. Mayuri Nayyar Chawla, Adv.
Ms. Anne Mathew, Adv.
Mr. Bharat Sood, Adv.
Ms. Shruti Jose, Adv.

For Respondent(s) Mr. Ravi Sikri, Sr. Adv.
Mr. Deepank Yadav, Adv.
Mr. Rohit, Adv.
Ms. N. Annapoorani, AOR

Mr. A.P. Mayee, AOR
Mr. A. Rajarajan, adv.
(In place of
Ms. Hemantika Wahni, AOR)

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

Leave granted.

In terms of the signed order, the appeals are disposed of.

Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)
COURT MASTER

(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER

(Signed order is placed on the file)