

Gujarat High Court

Arvindbhai Thakorbbhai Mehta vs Mamlatdar And Agricultural Lands ... on 12 June, 2023

Bench: Aniruddha P. Mayee

C/SCA/9545/2023

JUDGMENT DATED: 12/06/2023

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 9545 of 2023

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	No
2	To be referred to the Reporter or not ?	No
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	No

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ARVINDBHAI THAKORBHAI MEHTA

Versus

MAMLATDAR AND AGRICULTURAL LANDS TRIBUNAL (TENANCY),
KAMREJ

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Appearance:

MR KK TRIVEDI(934) for the Petitioner(s) No. 1

MR JAYNEEL PARIKH AGP for the Respondent(s) No. 1-2

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CORAM:HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Date : 12/06/2023

ORAL JUDGMENT

Rule. Rule returnable forthwith. Mr. Jayneel Parikh, learned AGP, waives service of rule on behalf of the respondents

- State and its authorities.

2. The present Special Civil Application has been filed praying C/SCA/9545/2023 JUDGMENT DATED: 12/06/2023 for the following reliefs:-

"6{A} YOUR LORDSHIPS may be pleased to admit this petition;

{B} YOUR LORDSHIPS may be pleased to pass appropriate writ in nature of mandamus or a writ of prohibition or a writ in nature of prohibition thereby quashing and setting aside the impugned notices dated 13.04.2023 {Annexure-"H" hereto} and dated 12.05.2023 {Annexure-"J" hereto} both issued by respondent no.1;

{C} PENDING admission, hearing, and final disposal of this petition, YOUR LORDSHIPS may be pleased to grant ex-parte mandatory order/ interim/ad-interim/ex-parte interim relief and further be pleased to restrain the respondents from proceeding further in connection with the impugned notices dated 13.04.2023 {Annexure-"H" hereto} and dated 12.05.2023 {Annexure-"J" hereto} both issued by respondent no.1 in the aforesaid peculiar facts and circumstances of the case as ell as in the interest of justice;"

3. The factual matrix in the present case is that, the name of the petitioner came to be entered in the revenue record in respect of Block No.135 (at present new Block No.165) of village: Bhada, Taluka Kamrej, District Surat by entry No.998 which came to be certified after due procedure under Section 135(D) of the Land Revenue Code on 27.1.1984. That the said land came to be transferred by a registered sale deed and mutation entry No.1973 dated 19.6.2004 came to be effected on the basis of the said sale deed and the said entry also came to be certified by the Mamlatdar after due proceedings under Section 135(D) of the C/SCA/9545/2023 JUDGMENT DATED: 12/06/2023 Land Revenue Code. That the Mamlatdar & ALT (Tenancy), Kamrej initiated proceedings being Tenancy/70-A/Case Registration No.2/2023 and issued show-cause notice dated 13.4.2023 (Annexure-H to the petition) to the petitioner herein. That the petitioner, thereafter, by his reply dated 27.4.2023 pointed out the factual situation and submitted that similar notice had been issued to the petitioner earlier also in respect of another land held by him which came to be challenged before this Court by way of Special Civil Application No.10892 of 2022 and by order dated 1.2.2023, this Court has quashed and set aside the said notice on the ground that the proceedings had been initiated beyond reasonable period of time. It was further submitted in the reply that the present proceedings were also initiated after a period of almost 40 years without any valid reasons and therefore, the same ought to be dropped. 3.1 That by another notice dated 12.5.2023, the Mamlatdar & ALT (Tenancy), Kamrej called upon the petitioner to remain present for hearing.

Aggrieved, the petitioner has preferred the present Special Civil Application.

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4. It is submitted by Mr. K.K.Trivedi, learned advocate for the petitioner, that in the present case, the name of the petitioner came to be mutated on 25.12.1983 vide entry No.998 which came to be duly certified by the Mamlatdar on 27.1.1994. He further submits that by registered sale deed dated 25.6.2002, the land in question came to be sold to other persons. A mutation entry to that effect being entry No.1973 was also entered into the revenue records on 19.6.2004 which was also later certified by the Mamlatdar. He submits that the petitioner has nothing to do with the land in

question as on date. He submits that in the present case, the proceedings have been initiated at the instance of a political person who has made a complaint (Annexure-E to the petition) and on the basis of the said complaint, the Mamlatdar has initiated the present proceedings against the petitioner. He submits that on the basis of a similar complaint, the Mamlatdar had initiated proceedings in respect of the land at village Pal, Taluka Adajan, District Surat which came to be quashed by this Court in Special Civil Application No.10892 of 2022 vide order dated 1.2.2023. He submits that similar proceedings are now initiated in the present case in respect of another land which was owned by the petitioner herein earlier. He further submits that despite C/SCA/9545/2023 JUDGMENT DATED: 12/06/2023 bringing the said facts to the notice of the Mamlatdar & ALT (Tenancy), Kamrej, he did not take cognizance of the same and is still continuing the present proceedings. He submits that the present Special Civil Application be allowed and the notices be quashed and set aside.

5. Per contra, Mr. Jayneel Parikh, learned AGP for the respondents - State submits that upon perusing the record, it cannot be denied that the order dated 1.2.2023 has been passed in respect of the petitioner only with respect to another land situated at village Pal. He also could not dispute from the documents on record that the said proceedings were also initiated after a period of long delay and at the instance of the same complainant who is also the complainant in the present case. He also could not deny the fact that the proceedings have been initiated after a period of almost 40 years. He, however, submits that the petitioner can bring all these facts to the notice of the Mamlatdar at the time of hearing and, accordingly, the Mamlatdar may take into consideration the same while passing the final order. He, therefore, submits that no interference is called for in the present Special Civil Application.

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6. Heard learned counsels for the parties and perused the documents on record.

7. The revenue entry shows that the name of the petitioner came to be entered in the revenue record on 25.12.1983. Thereafter, the land in question was transferred by registered sale deed on 25.6.2002 and mutation entry to that effect came to be entered into the revenue record on 19.6.2004. All these entries are duly certified by the Mamlatdar after following due provisions of the Land Revenue Code. In the present case, the proceedings are sought to be initiated after a period of almost 40 years. Today, the petitioner has no interest in the said land.

8. It is well settled law by catena of decisions of this Court as well as Hon'ble Supreme Court in case of Bhavnagar Municipal Corporation v. Palitana Sugar Mills (P) Ltd. & Ors. [(2004) 12 SCC 670] that the revenue authorities cannot initiate proceedings beyond a reasonable period of time. In the present case, the exercise has been initiated after a period of almost 40 years without any plausible explanation or reasons in the impugned notices. Further, the proceedings are initiated at the behest of a political person who has no interest in the said land and who C/SCA/9545/2023 JUDGMENT DATED: 12/06/2023 has filed various complaints against the petitioner in respect of different lands owned by him.

In view of aforesaid observations and the peculiar circumstances in the present case, the impugned notices dated 13.4.2023 and dated 12.5.2023 issued to the petitioner herein are quashed and set aside qua the petitioner as the said proceedings are initiated beyond a reasonable period of time i.e. after a period of almost 40 years. The Special Civil Application is allowed and stands disposed of accordingly. Rule is made absolute to aforesaid extent. No order as to costs.

Sd/-

(ANIRUDDHA P. MAYEE, J.) KAUSHIK D. CHAUHAN