(2019) 03 GUJ CK 0016

In the Gujarat High Court

Case No : R/Special Civil Application No. 7079 Of 2016

Baldevbhai Ishwarbhai & 3 Other(S) APPELLANT

Vs

State Of Gujarat & 5 Other(S) RESPONDENT

Date of Decision : 01-03-2019

Acts Referred:

Gujarat Revenue Tribunal Act, 1957 — Section 17

Citation : (2019) 03 GUJ CK 0016

Hon'ble Judges : A.J.Desai, J

Bench : Single Bench

Advocate : Hitesh N Acharya, Jk Shah, Nd Nanavaty, Parth H Patel

Final Decision : Disposed Off

Judgement

[1.0] RULE. Mr. Tanvish Bhatt, learned advocate waives service of notice of Rule on behalf of the respondent No.4 and learned AGP waives

service of notice of Rule on behalf of respondent No.1. With the consent of learned advocates appearing for respective present petition is taken up for

final hearing today.

[2.0] By way of present petition under Articles 14, 226 and 227 of the Constitution of India, following prayers have been made.

â??(a) Your Lordships may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction in nature of certiorari for quashing

and setting aside the impugned order dated 29.03.2016, passed by the Gujarat Revenue Tribunal, in Review Application No.TEN/CA/37/2015 in

Revision Application No.TEN/BA/244/2014 with all consequential effects;

(b) Pending the admission and final disposal of this petition, Your Lordships may be pleased to stay the impugned order dated 29.03.2016, passed by the Gujarat Revenue Tribunal ,in Review Application No.TEN/CA/37/2015 in Revision Application No.TEN/BA/244/2014;â??

[3.0] Mr. Hitesh Acharya, learned advocate appearing on behalf of the petitioners would submit that by passing the impugned order dated 29.03.2015,

the Gujarat Revenue Tribunal has exercised jurisdiction and decided the case afresh in review petition which is not permissible. He would further

submit that even the petitioner No.1 was deleted in the review petition. In support of his above submission, learned advocate appearing for the

petitioners has relied upon the decision in the case of Sureshbhai Dullabhai Patel & Ors. vs. Ramnikbhai Ravjibhai Patel reported in 2016(3) GLR

2110 and therefore, would submit that the petition be allowed and the order impugned be quashed and set aside.

[4.0] On the other hand, learned Senior Advocate Mr. N.D. Nanavaty would submit that the learned Gujarat Revenue Tribunal has powers to review

its own order and in support of his above submission, learned Senior Advocate has relied upon the decision rendered in the case of Ramkirpal vs.

Union of India and Anr. reported in (1998)39 (3) GLR 1892. He, therefore, would submit that the petition be dismissed.

[5.0] I have heard learned advocates appearing for the respective parties. Without going into the merits of the case and considering the fact that the

petitioner No.1 was deleted in the review petition and appropriate opportunity of hearing was not given to petitioner No.1, I am of the opinion that the

following order would meet the ends of justice. The order dated 29.03.2015 passed in Review Application No. TEN/CA/37/2015 in Revision

Application No.TEN/BA/244/2014 by the learned Gujarat Revenue Tribunal is hereby quashed and set aside. The Review Application

No.TEN/CA/37/2015 in Revision Application No.TEN/BA/244/2014 is hereby restored. It would be open for the petitioners to raise all contentions

including the contention regarding maintainability of the review application and powers of the learned Gujarat Revenue Tribunal as to whether the

Gujarat Revenue Tribunal can exercise such powers under review application and under which circumstances it can review its own order. The

learned Gujarat Revenue Tribunal shall pass the order in accordance with law and strictly in accordance with the powers vested in it under Section 17

of the Gujarat Revenue Tribunal Act. The learned Tribunal shall pass a fresh order without being influenced by the earlier order passed in the review proceedings.

[6.0] With above observation, petition is disposed of. Rule is made absolute to the aforesaid extent. Direct service is permitted.

