
(2017) 06 GUJ CK 0051
In the Gujarat High Court

Case No : 8225 of 2012 with Special Civil Application No 4757 of 2015

Gujarat Pipavav Port Ltd.

APPELLANT

Vs

State of Gujarat & Ors.

RESPONDENT

Date of Decision : 07-06-2017

Acts Referred:

[Gujarat Agricultural Lands Ceiling Act, 1961](#), Section 13, Section 29

Citation : (2017) 06 GUJ CK 0051

Hon'ble Judges : J.B. Pardiwala

Bench : Single Bench

Advocate : Soparkar, ?Dipen C. Shah, ?Nisha Thakore, ?M.B. Parikh, ?P.R. Nanavati

Judgement

1. Since the issues raised in both the captioned petitions are the same and the parties are also the same, those were heard analogously and are being disposed of by this common judgment and order. 2. The Special Civil Application No. 8225 of 2012 has been filed by the Gujarat Pipavav Port Ltd. praying for the following reliefs: "(a) That the Honourable Court be pleased to issue appropriate writ in the nature of Mandamus or any other appropriate writ directing Respondent No. 1 and Respondent No. 2 to take physical possession of land at Survey no. 109 at Village Rampara-2, Amreli in furtherance to Land Exchange order dated 27-2-2008 and for compliance of order of Supreme Court of India dated 31-3-2011 in SLP 9614/2009; (b) That the Honourable Court be pleased to issue appropriate writ in the nature of Mandamus or any other appropriate writ to Respondent No. 7 for providing adequate police protection for effective implementation of the order dated 31-3-2011 passed by Supreme Court of India in SLP 9614/2009 towards use of land by petitioner for port activities and to prevent unlawful interference by Respondent No. 5 and Respondent No. 6 over the said lands while taking physical possession by Collector; (c) That the Honourable Court may be pleased to issue a writ in the nature of Mandamus or any other Appropriate Writ requiring the respondents to implement and execute the Land Exchange order dated 2-7-2008 as directed in judgment and order dated

27-2-2006 in LPA 1787/2005 within a reasonable period of 60 from the date of order in present petition; (d) That the Honourable Court be pleased to issue interim/ad interim injunction restraining any person from creating any hindrance or obstruction in peaceful utilization of the land at survey no.109 by the petitioners pending present petition; (e) That the Honourable Court may be pleased to pass such further orders or directions as Justice of the case mandates." Whereas the connected petition has been filed by two individuals, being the residents of village Rampara-2, Taluka Rajula with the following prayers: "(A) Your Lordships be pleased to issue a writ of mandamus or any other appropriate writ order or direction quashing and setting the impugned order dated 4/12/2014 passed by the Collector, Amreli and Your Lordships further be pleased to direct the respondent no.7 to make available to the Collector, Amreli 30 Acres of Agricultural land upon which agricultural operations and cultivation are going on and possible as per the order dated 27/2/2006 passed by the Division Bench of this Honourable Court in LPA No. 1787 of 2005; (B) Pending admission, hearing and till final disposal of this petition, Your Lordships be pleased to grant stay against the operation, execution and implementation of the impugned order at annexure a, dated 4/12/2014 passed by the Collector, Amreli; (C) Pending admission, hearing and till final disposal of this petition, Your Lordships be pleased to direct the respondent no. 5 and 6 to make spot inspection of the lands of different revenue survey nos. admeasuring A 30 05 Gs. land as mentioned in the impugned order at annexure a, dated 4/12/2014 passed by the Collector, Amreli in the presence of petitioners and respondent no. 7 and Your Lordships further be pleased to direct them to file their report before this Honourable Court regarding the nature - shape - position of the aforesaid lands including possibility of agricultural operations, at the cost of the petitioners; (D) Your Lordships be pleased to direct the respondent nos. 1 and 6 to take appropriate action against the respondent nos. 3, 4 and 5 if report filed by Respondent No. 6 found that the lands offered by the respondent no. 7 and accepted by the collector, Amreli are barren, stark, salty in nature and impossible for cultivation; (E) Your Lordships be pleased to pass such other and further relief/s which may be deems fit in the interest of justice." 3. For the sake of convenience, the Special Civil Application No. 8225 of 2012 is treated as the lead matter. 4. It is the case of the petitioner that one Concession Agreement came to be executed between the Gujarat Maritime Board and the petitioner in the year 1998 for the purpose of development of the Pipavav Port. In pursuance to the said concession agreement signed and executed by the petitioner with the Gujarat Maritime Board in the year 1998, the Board and the Government of Gujarat acquired and allotted in favour of the Port 362 hectares of land out of the proposed 374 hectares of land. The balance 12 hectares of land (approximately 30 acres) forming part of the survey no. 109 paiki situated in the centre of the Port land could not be allotted to the petitioner at the relevant point of time on account of the dispute raised by the respondents nos. 5 and 6 herein with the Government. 5. In such circumstances, the petitioner preferred the Special Civil Application No. 16188 of 2005 before this Court and prayed for the necessary

directions to the Government to allot the balance 12 acres of land. The Special Civil Application no. 16188 of 2005 came to be rejected by the learned Single Judge vide order dated 23.09.2005. The petitioner being dissatisfied with the judgment and order passed by the learned Single Judge preferred a Letters Patent Appeal No. 1787 of 2005 before the Division Bench. The Letters Patent Appeal No. 1787 of 2005 came to be admitted and an interim order was passed. The order passed by the Division Bench dated 27.02.2006 reads as under: "Mr. Dave, learned AGP for Collector, Amreli seeks leave to place on record a copy of the order dated 24.2.2006 passed by the Collector whereby the Collector has declined the appellant's request for allotting the land in question to the appellant, even though the appellant offered to make available to the Collector another 30 acres of land outside the port limits, on the ground that the Collector has no such power under Section 29 of the Gujarat Agricultural Land Ceiling Act, 1960. 2. Mr. KS Nanavati, learned counsel for the appellant submits that Section 29 of the Gujarat Agricultural Land Ceiling Act, 1960 does not apply to grazing land, the land in question is grazing land, and that in any case the record does not indicate that the land in question is an agricultural land. It is submitted that in any view of the matter once the allotment is made under Section 29(1) and the allotment is subsequently cancelled on account of non-compliance with the conditions of allotment by the allottee, thereafter the Government is free to allot the land to any party. It is also further submitted that under Section 29-B any surplus land vesting in the State Government under Section 21 or 26 and allotment under Chapter V shall be subject to the provisions of the Bombay Land Revenue Code. Mr. Nanavati further submits that earlier the land in question bearing Revenue Survey No.109 part admeasuring 30 acres in Moje Rampara -II, Taluka Rajula of Amreli district was allotted to respondent Nos. 5 and 6 herein i.e. Mayabhai and Khodabhai sons of Valabhai Khasia in the year 1982. However, on account of failure on their part to pay the purchase price, the allotment was cancelled on 3.1.1985. The said cancellation order was challenged by respondent Nos.5 and 6 herein by filing Special LPA/1787/2005 3/6 ORDER Civil Application No.3762 of 1998. In the said proceedings, affidavit-in-reply dated 3.9.1998 was filed by Mr KK Doodhat, Dy. Collector, Rajula stating that Mamlatdar, Rajula had issued a notification dated 11.7.1990 for disposal of the land, but in the meantime the Gujarat Maritime Board had asked for the said land and, therefore, the notification was not acted upon. Thereafter the whole project was transferred from Gujarat Maritime Board to Gujarat Pipavav Port Ltd. (GPPL) i.e. the appellant herein in 1992 and from January 1994 onwards the appellant has been asking for the said land. Ultimately, after hearing the learned counsel for the parties including the learned counsel for respondent Nos. 5 and 6 herein (i.e. the petitioners in the said petition) the learned Single Judge of this Court dismissed the petition on 5.10.1998 by a detailed judgment. The said judgment has become final and, therefore, respondent Nos. 5 and 6 have no right over the land in question and the Government is free to allot the said land to the appellant herein. It is submitted that in any view of the matter the land in question is very close to the jetty and the other lands on which port activities are going on and,

therefore, the appellant company requires the said land. 3. Mr. PR Nanavati, learned counsel for Gujarat Maritime Board states, under instructions of Mr CJ Raval, Executive Engineer, Gujarat Maritime Board, that the land in question being Survey No. 109 forms part of the land within the port limits of Pipavav port and, therefore, by virtue of the provisions of Section 20 of the Gujarat Maritime Board Act, 1981, the land vests in the Gujarat Maritime Board and, therefore, the land has to be used for port activities or port related activities and the Collector has no power to allot the land to any other party, much less to the respondents herein. Mr Nanavati seeks leave to place on record a copy of the map. Leave as prayed for is granted. 4. Mr. PS Champaneri for respondent No. 5 and Ms Roopal Patel for respondent No. 6 state that the said respondents were originally allotted the land in question and that they have filed a civil suit in respect of the land in question. 5. As far as the other respondents are concerned, i.e. respondent Nos.7 to 16, Mr BS Patel submits that since the Collector proposes to make allotment of the land in question to agriculturists like respondent Nos.7 to 16, no relief should be granted in favour of the appellant and the Collector may be permitted to make allotment in accordance with the judgment rendered by the learned Single Judge. In the alternative it is stated that respondent Nos.7 to 16 are ready to accept allotment of any other land. 6. Mr. Dave, learned AGP for the Collector submits that so long as the land remains with the Revenue Department, the Collector is justified in allotting the land to applicants under Section 29 of the Act. It is submitted that as per the entries in the revenue record, the land vests in the State Government in the revenue department. 7. Having heard the learned counsel for the parties, the following order is passed:- ORDER The Letters Patent Appeal is admitted. Till final disposal of the appeal, there shall be interim stay of operation and implementation of the judgment under appeal, subject to the condition that the appellant-company shall make available to the Collector 30 acres of agricultural land in any area/s which the appellant-company and the Gujarat Maritime Board consider outside the port limits and this shall be done within two months from today. Thereafter it will be open to the Collector to make allotment of such land which will be made available by the appellant-company at its own cost, to the persons eligible under and in accordance with the provisions of Section 29 of the Gujarat Agricultural Land Ceiling Act, 1960. In short, allotment to be made by the Collector shall be of land other than Survey No.109 and the land to be so allotted shall be such as may be made available by the appellant-company at its own cost. There shall also be interim stay against allotment of any part of land bearing Survey No. 109 to any party other than the appellant-company. It is clarified that it is open to the appellant-company to pursue its request before the concerned authorities for allotting the land bearing Survey No. 109 to the appellant-company. The appeal shall be notified for final hearing on 12th April 2006. 8. The civil application is accordingly disposed of in the above terms. Rule is made absolute to the aforesaid extent." 6. It appears from the materials on record that the respondents nos. 5 and 6 herein filed the Special Leave Petition in the Supreme Court challenging the order passed by the Division Bench of this Court referred to above. The Supreme Court disposed of

the Special Leave Petition vide order dated 31.03.2011. The order reads as under: "This Special Leave Petition has been filed against the judgment and final order dated 1st august, 2008, passed by the Gujarat High Court in Civil Application No. 8152 of 2008, in Letters Patent Appeal No. 1787 of 2005, whereby in the said appeal filed by the respondent no. 15 herein, the order of 27th February, 2008, passed by the Division Bench was modified to the extent that it would be open to the said respondent to construct the road on the land in question, being part of Survey No. 109. The said order has been challenged by two of the three allottees of the land in question, to whom the land had been allotted. As far back as on 15th March, 1982. It may be mentioned that one of the allottees, that is, the father of the petitioners, namely, Valabhai Jivabhai Khasia, has died in the meantime. On 3rd January, 1985, the allotment was cancelled by the order of the Collector, on the ground of non-payment of occupancy 2/28/2015 charges. According to the petitioner, such cancellation was illegal in view of Section 43 of the Gujarat Land Ceiling Act, 1960. A Civil Suit No. 170 of 1998, was thereafter filed by the petitioner challenging such action of the Government and the same is pending disposal before the learned Civil Judge, Sr. Division, Amreli. On 23rd June, 1992, by way of an agreement between the Gujarat Maritime Board, the respondent no.3 herein, and one M/s. Seaking Engineers Limited, a Joint Venture Company was incorporated in the name of Gujarat Pipavav Port Ltd. (respondent no.15 herein) for developing the Pipavav Port. It is stated that on 12th August, 1992, the Gujarat Maritime Board, handed over 362 hectares of land to the respondent no.15 - Company, and, in addition, the Government also acquired 61 hectares of private land. However, out of a total area comprising 374 hectares, the Government allotted only 362 hectares of land to the respondent no.15. The remaining 12 hectares, which was the land originally allotted to the petitioners in 1982, was not allotted. Thereafter, several proceedings were taken by both the parties up to the High court and even up to this Court and ultimately all the said proceedings have come to an end, except the suit filed by the petitioners and Letters Patent Appeal No. 1787 of 2005, filed by the respondent no.15, which is pending in the Gujarat High Court. At this juncture, it may be indicated that the Letters Patent Appeal arose out of an order passed in a writ petition filed by the respondent no.15 for a direction upon the State Government to allot the said 30 acres of land, which had been earlier allotted to the petitioners, to the Joint Venture Company. Such prayer having been rejected by the learned Single Judge, the Letters Patent Appeal was filed therefrom and as indicated above, the matter is still pending before the Division Bench of the High Court. However, during the pendency of the Letters Patent Appeal, an order was passed by the Government allotting the said lands to the respondent no. 15 and, consequently, the relief, which had been sought for by the respondent no. 15, has already been granted. We, therefore, observe that the Letters Patent Appeal, pending before the High Court, has become infructuous and is also disposed of by this order. It may also be indicated that by the order dated 27th February, 2006, passed by the Division Bench of the Gujarat High Court in the said Letters Patent Appeal, the respondent no.15 was

directed to make available to the Collector 30 acres of agricultural land in any area, which the respondent no.15 and the Gujarat Maritime Board considered to be outside the port limits and the same was to be effected done within two months from the date of the order. Thereafter, it would be open to the Collector to make allotment of such land, which would be made available by the respondent no. 15 at its own cost, to the persons eligible under and in accordance with the provisions of Section 29 of the Gujarat Agricultural Land Ceiling act, 1960. A specific direction was given that lands within Survey No.109 were not to be allotted except to the Respondent No.15. Pursuant to the said direction, 30 acres 5 guntas of land now been made available in different survey numbers by the respondent no. 15 and the same is being held by the State for the purposes indicated in the aforesaid order of 27th February, 2006. Since, apart from the suit filed by the petitioners, no other proceedings is pending in respect of this property, it would be in the interest of all concerned if directions are given in the suit for expeditious disposal of the same. Since the Gujarat Maritime Board has taken an objection that for the purposes of security, the land in question should not be allotted to any other authority, other than the respondent no.15, we think it necessary to clarify that should the petitioner succeed in the suit, instead of the lands in question forming part of survey no.109, it shall be allotted the lands, which are being held by the State Government, in lieu of the lands originally allotted, without going into the question of eligibility under Section 29 of the above act. We, accordingly, direct the learned Civil Judge, Sr. Division, Amreli, to dispose of the suit as expeditiously as possible, but preferable within a period of six months from the date of communication of this order, having particular regard to the fact that the suit is pending since 1998. Consequently, in view of this order, the respondent no. 15, will be entitled to utilize the land allotted to them within survey no.109, which is the subject matter of the land in these proceedings and the order of status quo passed earlier in this Special Leave Petition on 9.4.2009, is vacated. The special leave petition is disposed of accordingly. In view of this order, Contempt Petition No.139 of 2010, filed by the respondent no.15, along with the application for perjury under Section 340 of the Code of Criminal Procedure, 1973, being I.A. No.1 of 2011, shall stand disposed of." 7. The picture that emerges from the materials on record is that the Port is in need of 30 acres of land bearing survey no.109. Indisputably, the survey no.109 is owned by the Government. In view of the two orders referred to above, more particularly, the order passed by the Supreme Court the Government is to hand over the possession of 30 acres of land of survey no.109, and as against that, the Port has to part with 30 acres of land situated outside the Port limit. Till this date the directions issued by this Court have not been complied with or executed on account of the dispute raised by the respondents nos.5 and 6. The respondents nos.5 and 6 herein are the petitioners in the connected petition. The claim of the respondents nos.5 and 6 is that a part of the land forming the revenue survey no.109 was allotted to them sometime in the year 1982 for the purpose of cultivation, in accordance with the scheme of the Government. It is their case

that they are cultivating the Government land and they hail from a lower and poor strata of the society as they are members of the Scheduled Caste. 8. It also appears that the condition on which the land was allotted came to be breached, for which the necessary action was taken by the authorities concerned and the land came to be forfeited with the State Government. This action was made a subject matter of challenge before this Court by filing the Special Civil Application No.3762 of 1998. The Special Civil Application No.3762 of 1998 came to be rejected by a learned Single Judge of this Court vide order dated 05.10.1998. The order reads as under: "1. This petition is filed by Khodabhai Valabhai and Mayabhai Valabhai, two sons of Valabhai. The facts and circumstances in which the petition has been filed are stated in brief. 2. Valabhai Jivabhai with his two sons Khodabhai and Mayabhai, each were allotted 10 acres of land on 15.3.1982 by fixing a price to be paid in 5 instalments. It appears that thereafter each one of them failed to pay the instalments. The entry about non-payment of instalments price was made on 26th March, 1982. The allotments were ultimately cancelled for want of payment price by order of the Collector dated 3rd January, 1985. On 8th January, 1985, the land was advertised for allotment. In response to which, only one of the petitioners Khodabhai Valabhai applied for allotment. The other two petitioners, namely, Valabhai and Mayabhai did not apply. However, this advertisement did not fructify in allotment and another public notice was made on 1.7.1990. In response to which, none of the three allottees applied for allotment. Thereafter, surrounding lands to the land in question was acquired by the Gujarat Maritime Board and were later on transferred to respondent No.4 in 1994 for the purpose of port development. It appears that vide applications dated 12th July, 1996 and 19th July, 1996, copies of these applications have not been produced, the petitioners applied to the Collector for recovery of the balance of the price and certifying the entry in land record about the allotment. That prayer was refused by communication dated 23rd March, 1996 addressed to Shri Navchetan D. Parmar, who appears to be pursuing the cause of the petitioners as their power of attorney holder. It was noted by the Collector that for non-payment of the purchase price, the allotment order dated 15.3.1982 already stood cancelled on 3.1.1985 and the land is government land. Therefore, prayer for acceptance of price and making of entry cannot be accepted. Against this communication, revision was filed before the State Government under the provisions of Land Revenue Code which was rejected by the impugned order dated 30th March, 1998. During this period, Valabhai Jivabhai is stated to have died in 1997 and the petition is by only the two remaining two allottees. The following substantial prayers have been made. (a) Be pleased to issue a writ of mandamus, prohibition or any other appropriate writ, order or direction, quashing and setting aside the orders of Collector, Revenue Appellate Authority and the Respondent State, and further be pleased to issue directions to the Respondent - Revenue authority to fix a fresh Kabja - price (Occupancy price) of the lands in question and to re-allot the same to the petitioners. (b) Be pleased to quash and set aside the Government Resolution of providing the land in question for Gujarat Pipavav Port Ltd. by way of depriving

the physical possession of the petitioners, in any manner, by their servants agents and subordinates, and to provide police protection, against such dispossession by Respondent No. 4. 3. In the reply affidavit, the State Government has reiterated that the order of allotment made in favour of the petitioners was cancelled on 3rd January, 1985 by Deputy Collector, Rajula. As the disputed land came into possession of the Government as surplus land under Agriculture Land Ceiling Act, procedure for the land was to be distributed once again among needy people and therefore Mamlatdar, Rajula, published a public notification to invite the applications from poor section of the society on 8th January, 1985. Total 8 persons applied for the land. The petitioners did not apply at that time nor did they raise any objection. However, development procedure by Gujarat Maritime Board started in this area to develop Pipavav Port. So it was felt by officers concerned not to go forward to dispose of any government land. However, in 1990 when the Gujarat Maritime Board acquired enough land for its use, this land was left unacquired. So once again Mamlatdar, Rajula had issued a notification for disposal of this land on 11th July, 1990. Once again, none of these petitioners applied for the land. Meanwhile, Gujarat Maritime Board had asked for the land in question and thereafter the said notification was not pursued further. After the whole project for the development of Pipavav Port has been transferred to respondent No.4 - Gujarat Pipavav Port Limited, for that purpose from January, 1994, the company has been asking for the said land. It has further been stated in the reply affidavit of the State that since the development of the area by the Maritime Board in the first instance and thereafter by the Company, the price of the land adjacent to the land has become astronomically high. It is stated to be the main objective for the present claim of the petitioners the land in question after about 15 years. 4. The respondent No.4 has also filed reply in line with the aforesaid facts. 5. In the first instance, the petitioner has urged that the order cancelling the allotment made in favour of the petitioner was made without notice to them on 3rd January, 1985. The same is void. The petitioners were not aware of the same and, therefore, when they came to know about this, they are entitled to challenge this. 6. This contention of the petitioner does not appear to be well founded that they were not aware about the factum of cancellation of allotment in their favour. Firstly, as noticed above, notwithstanding, the affidavit of respondent No.1 stating to contrary, as per the statement of the learned counsel for the petitioner and from the list of applicants, who had applied for the land in response to Notification dated 8th January, 1985, the petitioner No.1 Khodabhai Valabhai did respond to public notice by making an application and the petitioners including father of the present petitioners are pursuing their remedies jointly after making separate applications for allotment and securing the allotment. This is apparent not only from the fact that petitioner has been filed jointly but joint revision application was filed before the State Government and joint applications for acceptance of price and certifying the entry in the land records were made on behalf of the petitioners by Navchetan D. Parmar, the power of attorney holder. In fact, from the perusal of copy of revision, which was made available by the learned counsel

for the petitioners, it transpires that it was filed in the name of power of attorney holder only. Moreover, Valabhai and the two petitioners are closely related through full blood. The fact that having known about the notification of 8th January, 1985 and applied in response thereof for allotment in their favour, reasonably leads to the conclusion that they were aware about the fact of cancellation of the order made in their favour and had taken their chance for allotment in 1985, at least one of the petitioners. Again in 1990, the allotment has been advertised for allotment. It does not stand to reason if the petitioners had not known about the cancellation, they would have kept silence by not challenging that order even after successive notification for allotment land. Not only that in the first instance, one of the applicants did apply. Issue of public notice is not in dispute. There is no assertion on behalf of the petitioners about ignorance of such notice. It is further pertinent to notice that even after the Collector in his order dated 23rd September, 1997 referred to the order dated 3rd January, 1985 no attempt was made to challenge the same promptly. The revision was still confined to challenging the order dated 23rd September, 1996. It is for the first time, an attempt has been made during the course of argument that order dated 3rd January, 1985 is invalid. It is further to be noticed that in the relief clause no specific mention to the order dated 3rd January, 19985 has been made. 7. Another important feature which is to be noticed at this juncture is that copy of any representation made or any other satisfactory evidence has not been produced to show that the petitioners were laying claim to this land prior to Annexure-"D" dated 23rd May, 1996 written by one Madhubhai Bhuvra, MLA, Rajula Constituency, to the then Chief Minister, Gujarat, calling generally the attention of the Chief Minister about the allotment of 30 acres of land in Rampura village of Rajula, to the members of scheduled castes and harijans. Apart from this letter, learned counsel for the petitioners during the course of argument further tried to show copies of representation in this regard made to the Collector, when it was pointed out to him that after having come to know that the land in question was notified for re-allotment way back in 1985 and 1990, yet no action was taken on the part of the petitioners before the appropriate authorities. Those letters, copy of which have been made available for perusal of the court during the course of argument were also letter dated 27th June, 1997 and 6th June, 1998 respectively. These facts do lend support to the contention of the State Government that the present litigation is not bona fide but is raised for the first time around June 1996 with a view to put forward the claim to the land on account of increase in the price of the land as a result of port development in the surrounding area. Had there been any substance in the contention, and the petitioners were keen to retain the land on payment of price, they would not have remained silent until the respondent No.4 made an effort to get allotment in its favour for utilisation of surrounding land for the purpose of port development. No material has been placed that the petitioners have ever been willing in retaining this land prior to 1996, which was once allotted in their favour in 1982 by fixing a price, which they did not voluntarily pay and were satisfied with cancellation of allotment because, perhaps, they did not want to acquire

that land at the price fixed at the relevant time and now actuated with mind to share increase in the price of the land, are trying to fall back on the allotment made in 1982 by challenging cancellation made way back in 1985 for nonpayment of price. 8. In the aforesaid circumstances, I am not inclined to invoke extraordinary jurisdiction in favour of petitioners in aid of their ulterior objective to cash on the increase in price by raising the stale claims. 9. This is apart from the fact that the petition suffers from misjoinder of parties and is litigated by somebody else than the petitioners, which is apparent from the fact that in the revision before the State Government was filed in the name of Navchetan D. Parmar, alleging himself as power of attorney holder. 10. Faced with this situation, learned counsel urges that land be not allotted to Gujarat Pipavav Port Limited in view of the provisions off the Gujarat Agricultural Land Ceiling Act, 1960. The petitioners have shown consistently their disinterest in acquiring land since its allotment in their favour in 1982. Firstly not paying price thereafter not raising any objection to the purported illegal cancellation of allotment made on 3rd January, 1985. Even after, having come to know that process of re-allotment has been put in motion way back in January, 1985 made no response whatever for securing allotment when allotment was again initiated in 1990. The fact that those process ultimately did not fructify in favour of allotment in favour of anybody does not detract from the fact that the petitioners were not being vigilant enough to protect their rights arising under allotment and making it manifest that they were not interested in acquisition of lands until phenomenon escalation in price. 11. Apart from this, the Tribunal has clearly found that the petitioners are not in possession of the land in question. This additional factor further strengthens the conclusion that the present attempt is only to secure the land as the price of the land adjacent to the land in question has become very high. 12. Moreover, the allotment made in favour of the petitioner was cancelled on account of default in payment of instalments and petitioners had shown lack of interest in acquisition of land on successive opportunities , they lose their locus standi to challenge the allotment made in others favour. 13. In the circumstances, I am of the opinion that it is not a fit case for exercise of discretion under extraordinary jurisdiction in favour of the petitioners. 14. Petition therefore fails and is hereby dismissed. Notice is discharged. Ad interim relief stands vacated. There shall be no order as to costs. 15. The request for extension of ad interim relief is refused." 9. It appears that being dissatisfied with the judgment and order referred to above, the respondents nos. 5 and 6 herein preferred the Letters Patent Appeal, which also was ordered to be dismissed. It also appears that the respondents nos. 5 and 6 went right up to the Supreme Court and the challenge before the Supreme Court also failed vide order dated 12.03.2010. Thereafter, they approached the civil court by filing a Regular Civil Suit No. 170 of 1998, which is pending as on date. 10. The facts narrated above would indicate that it is the hindrance and obstructions created by the respondents nos. 5 and 6 that the authorities concerned could not give effect to the directions issued by this court for the purpose of allotment of 30 acres of land forming part of the survey no.109. 11.

At this stage, let me look into the stance of the State Government in this regard. The State Government has filed an affidavit in reply duly affirmed by one Mr. P.B. Thakar, Resident Additional Collector, Amreli. In the affidavit in reply, the following has been stated: "8. I respectfully say and submit that the petitioner has prayed for appropriate directions against the respondent and execute the land exchange order dated 02.07.2008 as directed in judgment and order dated 27.02.2006 passed in Letters Patent Appeal No. 1787 of 2005 within a reasonable period of 60 days from the date of the order in the petition. The petitioner herein simultaneously prayed for interim relief and thereby seeking order of interim injunction restraining any person from creating any hindrance or obstruction in peaceful utilization of the land at survey no.109 by the petitioners pending the present petition. 9. At the outset, it is contended that by the present petitioner that the respondent authorities have failed to implement the direction given by this Hon'ble Court in order dated 27.02.2006 as well as in the land exchange order dated 02.07.2008 and order passed by the Hon'ble Apex Court. It is further contended that the respondents have failed to execute their powers under Section 202 and 200 of the Bombay Land Revenue code, to remove the unauthorized trespass by the erstwhile allottees i.e. Shri Mayabhai and other and to preventing the petitioners from using and occupying the land at survey no. 109 paiki (12 hector), which is in contravention of the directions issued by this Hon'ble Apex Court in its order dated 31.03.2011 passed in SLP no. 9614 of 2009. 10. I humbly say and submit that certain facts are required to be brought to the notice of the Hon'ble Court which are as under: (a) The land in question is bearing revenue survey no.109 admeasuring 12-14-06 hectare Ara. I state that the said land was declared as surplus land under the Gujarat Agricultural Land Ceiling Act, and accordingly the said land was available for grant of Santhani land, as per the prevailing policy of the State Government. Initially, the said land was granted to third parties by the order passed by the learned Deputy Collector, Rajula. However, since the said persons failed to deposit the occupant price and there was a breach of the terms and conditions. After taking necessary action the said land was again restored back to the Government. (b) It may kindly be appreciated that one Mayabhai Valabhai Khasiya and Khodabhai Valabhai Khasiya, who were given a part of the said land had filed various applications before the authorities to establish their rights/title upon the land in question. (c) The petitioner herein was permitted by the Hon'ble Apex Court vide order dated 31.03.2011 passed in SLP No.9614 of 2009 to utilize the said land. However, the at the same time, the petitioner herein-Gujarat Pipavav Port Ltd. is also under obligation to handover the 30 Acres of land to the State Government under the land exchange condition. I therefore, say and submit that the Hon'ble Apex Court, though permitted the petitioner herein to utilize the said land at the same time, the petitioner is required to handover the possession of the 30 Acre of the land to the State Government under the land exchange order which is yet not given to the State Government. (d) It may kindly be appreciated that a part of the land in question is encroached by the respondent no. 5 and 6 who are creating hindrance in taking over the possession of the land in question. Again

the respondent no.5 and 6 herein belong to the Scheduled Caste and whenever the respondent authorities have tried to implement the order of this Hon''ble Court as well as the Hon''ble Apex Court. I say and submit that the complaints have been lodged by the respondents no. 5 and 6. Therefore, in these set of circumstances, the respondent authorities are unable to take physical possession of the land in question and the order of land exchange and order passed by the Hon''ble Apex court dated 31.03.2011 could not be complied with. 11. It is stated that present petitioner had initially proposed to give land bearing survey no.736 situated at Rampara-2 admeasuring 10 Acres. However, on going through the revenue records, it was found that the land admeasuring 10 Acres was taken in revision by Collector vide order dated 11.04.2012. Hence, against the land of 30 Acres to be given to the State Authorities, as per the land exchange order the petitioner has in all applied to give only 20 acres to the collector. 12. The remaining 10 Acres of land is having two parts. One part of 5 Acres S.N. 168 & S.N.244 p2 is already in the name of GPPL. Another part of 5 Acres S.N. 730 village Rampara-2 is purchased by GPPL Dt.23-11-12. The entry in VF6 is certified on 9-1-13. GPPL ha applied to Government on 18-10-12 without registered document. As the land is in the name of GPPL on 09- 01-13. Mamlatdar has submitted the proposal to Assistant Collector, Rajula on 19-01-13. Now, Assistant Collector, Rajula submitted the proposal to the Collector on 29-01-13 after necessary verification of records. 13. Therefore proposal of 10 acres land is still under process. It is stated that as and when the petitioner hands over in all 30 acres of land to the authorities under the land exchange order, after due process necessary action will be taken by competent authority as per the directions of Hon''ble Apex Court." 12. Mr. Soparkar, the learned senior counsel assisted by Mr. Dipen C. Shah, learned counsel appearing for the petitioner, submits that the petitioner is ready and willing to part with the 30 acres of land outside the Port limit and in lieu of that the Government is expected to allot 30 acres of land bearing survey no. 109. The Government is also ready and willing to hand over the 30 acres of land forming part of survey no. 109, but they are frightened of the respondents nos. 5 and 6 because they are members of the Scheduled Caste and are creating trouble. The Government has got deterred by the threats which have been administered by the respondents nos. 5 and 6. The Government seems to be unmindful of the fact that the land is required for the public purpose. The respondents nos.5 and 6 have lost right up to the Supreme Court. The Supreme Court in the last order has clarified that ultimately if the respondents nos. 5 and 6 succeed in the suit then out of 30 acres, which the Port would be handing over to the State Government, the land be allotted to them. The need of the hour today is that the 30 acres of land forming part of survey no.109 should be immediately handed over to the Port. At the same time, it is expected of the petitioner also to handover 30 acres of land forming part of survey nos. 168, 730 and 736. 13. Mr. Soparkar, the learned senior counsel appearing for the Port makes a statement, after taking instructions from his client, that the 30 acres of land free from all encumbrances and with clear title shall be handed over to the State Government. He further

expects the State Government also to handover 30 acres of land bearing survey no. 109 free of all encumbrances. 14. At this stage, Mr Soparkar, the learned senior counsel appearing for the Port, brings to my notice the fact that 30 acres of land was already handed over to the State Government on 31.03.2015. The possession receipt has also been issued by the authority concerned acknowledging the same. However, the very same 30 acres of land was ordered to be returned to the Port by the authority on the premise that since the matter is pending before the Supreme Court, it could not have taken possession of the land. Since the entire litigation is being brought to an end and the matter is been disposed of, the Port shall once again handover the land in question to the authority concerned and the applicant shall take over the possession in accordance with law. 15. While the judgment was being dictated in the first session, I inquired with Mr. Parikh, whether he was ready and willing to make a statement that his clients would not create any further hindrance or any obstruction in taking over of the possession of the land forming part of survey no.109 so that the same can be handed over to the Port. Mr. Parikh, the learned counsel, in the second session, makes a submission that he has not been able to contact his client and is unable to make any such statement. 16. Be that as it may, the Collector, Amreli, is directed to ensure that the possession of the land is taken over from the respondents nos. 5 and 6 or any other person at the earliest without fail within a period of two weeks from the date of the receipt of this order. The Mamlatdar, Rajula, as well as the District Superintendent of Police, Amreli, are directed to assist the Collector in taking over of the possession. The officers concerned shall not get deterred in any manner with any of the threats administered by the respondents nos. 5 and 6, thereby defeating the public purpose for which the land is required. If the police and the other Government authorities are going to get frightened with such threats then the same will lead to a state of anarchy. It is very unfortunate that the authorities are frightened by the threats which have been administered by the respondents nos. 5 and 6. The Superintendent of Police shall deploy a team of officers to see that no untoward incident occurs, and if necessary, shall also use reasonable force in accordance with law. Let this entire exercise be completed within four weeks from the date of receipt of this order. With the above, the connected petitions are also disposed of. 17. I take notice of the fact that despite the Supreme Court's direction to expedite the proceedings of the civil suit, the special civil suit has not been disposed of. The civil court is also directed to ensure that the civil suit is disposed of within three months from the date of the receipt of the order otherwise, administrative action shall be taken against the concerned presiding officer. The directions issued by the Supreme Court and the High Court are not to be taken lightly. It amounts to contempt of the court. Direct service is permitted.