

(2012) 12 GUJ CK 0061

In the Gujarat High Court

Case No : Special Civil Application No. 13219 of 2012

Jivan Mangalam Trust and Others

APPELLANT

Vs

State of Gujarat and 2

RESPONDENT

Date of Decision : 24-12-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 12 GUJ CK 0061

Hon'ble Judges : Abhilasha Kumari, J

Bench : Single Bench

**Advocate : Anshin H. Desai, for the Petitioners No. 1-1.4, for the Appellant;
Ronak Raval, Asstt. Government Pleader, for the Respondent**

Final Decision : Allowed

Judgement

Honourable Smt. Justice Abhilasha Kumari

1. Rule. Mr. Ronak Raval, learned Assistant Government Pleader, waives service of notice of Rule on behalf of the respondents. On the facts, and in the circumstances of the case, and with the consent of learned counsel for the respective parties, the petition is being heard and finally decided. By preferring this petition under Article 226 of the Constitution of India, the petitioner-Trust has assailed the interim order dated 25.09.2012, passed by the Secretary (Appeals), whereby, the application for grant of interim relief filed by the petitioner pending the revision application, has been rejected.

2. Briefly stated, the facts of the case are that land bearing Survey No. 134 Paiki admeasuring 6 Acres and 00 Gunthas situated at Village Veja, Taluka and District: Rajkot, was given to the petitioner-Trust on lease for a period of thirty years, by order dated 25.02.1972. The lease was granted with certain conditions. According to the petitioner, the land has been fully utilized by it and numerous trees of several varieties, as mentioned in Paragraph-6 of the petition, have been grown and are existing on the land in question, leaving no space for growing any

more trees. The said trees are fully grown, well nourished and maintained, till date. The petition has appended photographs at Annexure-E in support of this averment.

3. On 25.02.2002, the petitioner made an application to respondent No. 3-- Collector, Rajkot, for renewal of the lease. As there was no response from respondent No. 3, the petitioner subsequently made five applications for the same purpose. It is the case of the petitioner that without issuing any show cause notice or granting an opportunity of hearing, respondent No. 3 has passed an order dated 21.05.2012, whereby, the application of the petitioner for renewal of lease was rejected and the land was directed to be confiscated by the State. Aggrieved by the above mentioned order, the petitioner filed a revision application before the Secretary (Appeals), which was registered as Revision Application No.MVV/JMN/RJT/22/2012. Along with the revision application, the petitioner filed an application for grant of interim relief. By the impugned order dated 25.09.2012, the Secretary (Appeals) has rejected the application for grant of interim relief. Aggrieved thereby, the petitioner has approached this Court by filing the present petition.

4. Mr. Anshin H. Desai, learned advocate for the petitioner, submits that the order of the Collector that has been impugned before the Secretary (Appeals), has been passed without issuance of notice to the petitioner or granting him an opportunity of hearing. Moreover, the said order has been passed after a period of ten years from the date of making the initial application for renewal of lease. This aspect has not been taken into consideration by the Secretary (Appeals) and the application filed by the petitioner for grant of interim relief has been rejected by a one-line order. It is further submitted that the land in question is fully developed and is covered by fully-grown fruit trees. Grave prejudice would be caused to the petitioner if interim relief is not granted.

5. Mr. Ronak Raval, learned Assistant Government Pleader, has submitted that the revision application is pending before respondent No. 1 and it can be decided expeditiously.

6. Having "heard" learned counsel for the respective parties and having considered the facts and circumstances of the case as emerging from the record and as the revision application filed by the petitioner is pending before the Secretary (Appeals), this Court would refrain from entering into the merits of the matter. In the view of this Court, the interest of justice would be met, if the Secretary (Appeals) is directed to consider and decide the revision application filed by the petitioner, expeditiously.

7. Accordingly, the following order:

The Secretary (Appeals), Revenue Department, shall consider and decide the revision application, being Revision Application No.MVV/JMN/RJT/22/2012, filed by the petitioner within a period of one year from the date of the receipt of the writ of this order. The revision application shall be disposed of, in accordance with

law, without being influenced by the factum of filing of the present petition. The status-quo order, granted by this Court, shall continue till the final decision of the revision application.

8. The petition is partly-allowed in the above terms. Rule is made absolute, to the above extent. There shall be no orders as to costs. Direct Service is permitted.