

(2015) 01 GUJ CK 0011

In the Gujarat High Court

Case No : Special Civil Application No. 8134 of 2013

Kalpanaben

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 19-01-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 01 GUJ CK 0011

Hon'ble Judges : R.M. Chhaya, J.

Bench : Single Bench

Advocate : N.V. Gandhi, for the Appellant; Manan Mehta, AGP, Advocates for the Respondent

Final Decision : Allowed

Judgement

R.M. Chhaya, J.—RULE. Mr. Manan Mehta, learned Assistant Government Pleader for respondent Nos. 1 to 4, and Mr. Y.J. Patel learned advocate for respondent No. 5/private respondent, appear and waive service of rule on behalf of the respective respondents.

2. Considering the issue involved in this petition, more particularly considering the fact that the present petition is filed under Article 226 of the Constitution of India against non-grant of interim relief by the respondent-SSRD in Revision Application No. MVV/HKP/ST/169/12 and with consent of the learned counsel appearing for the respective parties the matter is taken up for final disposal forthwith.

3. Heard learned counsel for the respective parties.

4. It appears that the petitioners have challenged order dated 23.11.2011 passed by District Collector, Surat, in RTS/Revision Application No. 127/2010 by way of filing Revision Application No. MVV/HKP/ST/169/12 as provided under Rule 108(6)(A) of the Gujarat Land Revenue Rules, 1972 before the respondent-SSRD. It further appears from the impugned order that the said revision

application came to be admitted and is pending for final hearing, however, after hearing the parties, by the impugned order dated 14.03.2013 the application for stay filed in the aforesaid revision application came to be rejected by the respondent-SSRD. Petitioner, being aggrieved by the said order, has preferred the present petition.

5. This Court by order dated 02.05.2013 passed the following order:

"Heard Mr. N.V. Gandhi, learned advocate for the petitioners.

Issue notice, returnable on 27th June, 2013.

By way of ad-interim relief, the impugned order dated 14.3.2013 passed by the respondent No. 1, Secretary (Appeals), Revenue Department, Ahmedabad in Revision Application No. MVV/HKP/ST/69/2012 as well as order dated 23.11.2011 passed by the District Collector, Surat in RTS Revision Application No. 127 of 2010, are hereby stayed.

Direct service is permitted.

Sd/- (HARSHA DEVANI, J.)"

6. In view of the fact that the aforesaid order of this Court has remained in operation since 02.05.2013, interest of justice would be served if the said order is continued till final disposal of the main revision application.

7. In light of the aforesaid, following directions are issued:

(i) interim relief granted by this Court vide order dated 02.05.2013 in this petition shall continue in the same terms till Revision Application No. MVV/HKP/ST/169/12 is finally decided and disposed of by the respondent-SSRD;

(ii) respondent-SSRD shall fix the main Revision Application No. MVV/HKP/ST/169/12 within a period of 04 (four) weeks, from the date of receipt/production of this judgment and after hearing all sides, and shall dispose of the said revision finally within a period of 06 (six) months from the date of fixing the revision, as directed above;

(iii) respondent-SSRD shall decide Revision Application No. MVV/HKP/ST/169/12 on its own merits, without being influenced by the observations made by this Court in this judgment or in the impugned order before it;

8. It would be open for the petitioners as well as respondent No. 5 to take all available contentions before the respondent-SSRD and passing of this order shall not in any manner prejudice the rights of either party before the respondent-SSRD.

9. Learned counsel for the petitioners as well as respondent No. 5 assure this Court that the parties shall cooperate with the respondent-SSRD in disposal of Revision Application No. MVV/HKP/ST/169/12, as directed by this Court.

10. Even at the cost of repetition, it is clarified that this Court has considered the matter qua the interim order passed by the respondent-SSRD, more particularly having regard to the fact that this Court while issuing notice dated 02.05.2013 has granted ad-interim relief and the respondent-SSRD shall dispose of Revision Application No. MVV/HKP/ST/169/12 as per the directions issued by this Court in the present judgment independently.

11. Petition is allowed accordingly. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.