

(2019) 08 GUJ CK 0027

In the Gujarat High Court

Case No : R/Special Civil Application No. 13814 Of 2019

Kanjibhai Jerambhai Parmar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 09-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 14, 19, 21, 226, 227, 300A

Citation : (2019) 08 GUJ CK 0027

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

Bench : Single Bench

Advocate : Divyang A. Raman, K.M. Antani

Final Decision : Disposed Of

Judgement

A.J. Desai, J

1. RULE. Learned AGP waives service of notice of Rule on behalf of the respondent No. 1. With the consent of learned advocates appearing for respective parties, petition is taken up for final hearing today.

2. By way of present petition under Articles 14, 19, 21, 226, 227 and 300(A) of the Constitution of India, following prayers have been made.

"(B) Your Lordships may be pleased to issue a writ of mandamus or a writ of certiorari or any other appropriate writ, order, direction by setting aside the order dated 31/08/2018 (Annexure-A hereto) passed by Respondent No. 1 in Revision Application MVV/JMN/Bhavnagar/28/2015 and the order passed by the Collector, Bhavnagar in R.O./Appeal/10/2009-10 dated on 18/02/2010 and be pleased to direct to the respondent authorities to enter the name of the present petitioner in record of rights of the disputed land in the interest of justice;

(C) Pending admission, hearing and final disposal of this petition, Your Lordships may be pleased to stay the execution, implementation and operation of the order dated 31/08/2009 (Annexure-A hereto) passed by Respondent No. 1 in Revision

Application MVV/JMN/Bhavnagar/28/2015 and the order passed by the Collector, Bhavnagar in R.O./Appeal/10/2009-10 dated on 18/02/2010 and be pleased to direct to the Revenue authorities to maintain status-quo with regard to the possession of the disputed land;"

3. The petitioner before this Court is a member of Scheduled Caste whose father was granted the land for carrying out agricultural activities. It is the case of the petitioner that the land has been confiscated on the ground that the same was not cultivated. It is the case of the petitioner that the petitioner as well as his father could not cultivate the land in question for some years because of reasons beyond their control and therefore, the land has been confiscated.

4. Learned advocate Mr. Ramani appearing for the petitioner would submit that the petitioner is from lower strata of society and belong to Scheduled Tribe and residing in remote area in interior of Umralla Taluka of District Bhavnagar and therefore, the order has been challenged at belated stage. He would submit that as per certain Government Resolutions, which are produced on record of the petition, if the allottee has committed breach for the first time, the government can consider to re-grant the land. He would further submit that the petitioner shall make an application to the District Collector, Bhavnagar for re-grant of the land in question.

5. Learned AGP has opposed the present petition.

6. I have heard learned advocates appearing for respective parties. It prima facie appears that there was breach of terms and conditions with regard to the allotment of the land in question, however considering the fact that the petitioner is from Scheduled Caste and certain Government Resolutions have been issued to condone such irregularity, I am of the opinion that the following order would meet the ends of justice.

The petitioner shall make a representation/application to the District Collector, Bhavnagar for re-grant of the land within a period of two weeks and shall also supply all the government resolutions. The District Collector, Bhavnagar shall consider the representation/application of the petitioner in accordance with law and as per the government resolutions issued by the Government. Till the representation/application that may be preferred by the petitioner is decided, the petitioner shall not be dispossessed from the land in question. The petitioner is also hereby restrained from creating any third party rights with regard to the land in question.

7. With above direction, petition is disposed of. Direct service is permitted.