

(1997) 11 GUJ CK 0013

In the Gujarat High Court

Case No : Special Civil Application No. 2932 of 1983

Kisanbhai Chindubhai Sonar

APPELLANT

Vs

K.C. Sagar and Another

RESPONDENT

Date of Decision : 17-11-1997

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : AIR 1998 Guj 105

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : M.G. Vakharia, for the Appellant; Siddhi Talati, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.

2. The facts which are not in dispute are as under:

(i) The plot in question admeasuring 16 x 50 ft. was allotted by the Government to one Shri Tanaji Tikaram and the petitioner had purchased the said plot from the said person for consideration of Rs. 850/-.

(ii) The District Collector, Dang, vide its order dated 23rd May 1979, was pleased to regularise the land in dispute in favour of the petitioner. The land was granted for three years subject to the clause of renewal application to be submitted before six months of the date of expiry of the period of lease.

(iii) The grant was further under condition of not raising construction on the land without prior permission of the Collector of the District.

(v) The petitioner is a non-Dangi and the land under the scheme framed by the Government was to be allotted only to Dangis.

(v) The application for renewal of lease was not submitted within prescribed time.

(vi) The petitioner raised construction on the land in dispute without permission

of the Collector of the District.

(vii) The petitioner was called upon to show cause by respondent No. 2, vide notice dated 1st October, 1982, to show cause as to why the land in dispute should not be confiscated.

(viii) The petitioner submitted a reply to the said show cause notice but the same was not found satisfactory.

(ix) The authority, respondent No. 2, under its order dated 8th November 1982, ordered for confiscation of the said land to the Government together with standing construction thereon. Against this order, the petitioner preferred appeal before respondent No. 1 which was dismissed under the order dated 19th March, 1983.

3. The land in dispute was ordered to be confiscated on the grounds that (i) the application for renewal of lease was not submitted within time. (ii) the petitioner raised construction without permission of the Collector of the District and lastly (iii) the petitioner is a non-Dangi, i.e. a person who is not eligible for grant of the said land. So there is contravention of conditions Nos. 5 and 7 of the said order.

4. The learned counsel for petitioner admitted that application was not submitted within stipulated period and further that the petitioner raised construction on the land in dispute without prior permission of the Collector. The learned counsel for the petitioner further does not dispute that the petitioner is not Dangi. However, the learned counsel for the petitioner contended that the petitioner is residing in Dang for the last 30 years.

5. It is a case where the very purpose and object of framing the same for grant of the land to the Schedule Tribes is frustrated by the petitioner as well as by the authority, the respondent No. 2 herein. The petitioner was not a Dangi and when he purchased this land from the original grantee of the same, the Collector should not have regularized that sale in favour of the petitioner. The Collector of the District is an officer who has to monitor implementation of law as well as scheme framed by the Government for Scheduled Tribes, but he has shown scant disregard to the scheme etc. However, merely because the Collector, at one point of time, has committed an illegality or error or mistake cannot be taken in favour of the petitioner and the transfer of the land which was illegal since its inception cannot be regularized. Otherwise also, the two other grounds given by respondents to order for confiscation of the land to the Government are perfectly legal and justified and no interference of this Court is called for. I do not find any error apparent on the face of the orders passed by the authorities below which call for any interference of this Court sitting under Article 226 or 227 of the Constitution of India. It is a case where the petitioner has violated the terms of the grant itself and as such no protection to a person who is not a law abiding citizen can be given by this Court.

6. In the result, this Special Civil Application fails and the same is dismissed.

Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.