

(2020) 10 GUJ CK 0040
In the Gujarat High Court

Case No : ?R/Special Civil Application No. 13391 Of 2020

Manojbhai Gordhanbhai Mori

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 28-10-2020

Acts Referred:

Constitution Of India, 1950 — Article 226
Gujarat Land Revenue Code, 1879 — Section 202

Citation : (2020) 10 GUJ CK 0040

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : NK Majmudar, Jyoti Bhatt, KV Gadhia

Final Decision : Dismissed

Judgement

Bela M. Trivedi, J

1. The present petition has been filed by 45 petitioners under Article 226 of the Constitution of India seeking following reliefs as prayed for in paragraph 11 :-

"(A) Your Lordship may be pleased to allow/admit this petition;

(B) Your Lordship may be pleased to pass appropriate order and be pleased to quash and set aside the notice issued by the concerned respondent authority;

(C) Your Lordship may be pleased to pass appropriate order and be pleased grant interim relief and be pleased to restrain the concerned authorities from undertaking demolition drive/from removing the hutment dwellers who have been residing upon the land bearing Survey No.237, Rajkot (east), Rajkot till the petitioners may provide alternate accommodation in Aawas Yojna for hutment dwellers;

OR in alternatively

Your Lordship may be pleased to pass appropriate order and be pleased grant

interim relief and be pleased grant status-quo in respect of the Kachcha-Pukka huts the land bearing Survey No.237, Rajkot (east), Rajkot till the petitioner may provide alternate accommodation Aawas Yojna for hutment dwellers till final disposal of this petition;

(D) Your Lordship may be pleased to pass appropriate order and be pleased to provide alternate accommodation to the petitioners as per various scheme of the State Government."

2. As per the case of the petitioners, the petitioners are residing in Kachcha Pukka houses constructed on the land bearing Survey No.237 paiki situated at Ajinagar, Rajkot. The respondent authorities had issued notices to the petitioners, calling upon them to vacate the said plot on the ground that they had encroached upon the said land unauthorizedly. Some the of the petitioners had replied to the said notices and requested to regularise their occupation as per various schemes of the State Government, as the respondent authority had allotted alternative accommodation to many persons similarly situated as the petitioners. The last notice received by the petitioners was dated 12.10.2020 issued by the respondent Mamlatdar, Rajkot (City) under Section 202 of the Land Revenue Code (hereinafter referred to as "the Code").

3. It is sought to be submitted by the learned Advocate Mr.Majmudar for the petitioners that the petitioners belong to a very lower strata of society and they have no other houses, and if they are evicted from their huts situated on the land in question, they would be rendered homeless. Mr.Majmudar also submitted that considering the present pandemic situation, the petitioners be allotted alternative accommodations as per the prevailing Government Schemes.

4. At the outset, it may be noted that the present petition lacks basic facts and particulars. There is nothing on record to suggest that each of the 45 petitioners is having their huts on the land in question i.e. land bearing Survey No.237. The petitioners have also not produced the earlier notices received by them and the notices impugned by them, except the notices issued to the two-three petitioners by the Additional Mamlatdar, Rajkot under Section 202 of the Code, calling upon them to vacate the illegal occupation on the land bearing Survey No.237, which is a Government waste land. Under the circumstances, the present petition deserves to be dismissed on the ground of being vague and on the ground of non-production of requisite documents to show their legal occupation. From the documents on record, more particularly the notices issued by the respondent authority to some of the petitioners, it clearly transpires that they have illegally occupied the Government land, for which the notices were issued earlier and finally under Section 202 of the Code. As such, the petitioners themselves have mentioned in the petition that they had received notices and some of the petitioners had also replied to the said notices. Though the said notices and replies are not on record, even if the said statements are accepted as true, the petitioners were given opportunity of hearing before issuing the final notices under Section 202 of the Code, and therefore, it could not be said that the

petitioners were not given opportunity of hearing before evicting them from the illegal occupation of the land in question.

5. In that view of the matter, the present petition deserves to be dismissed in limine and is accordingly dismissed in limine.