

(1996) 08 SC CK 0005
In the Supreme Court Of India
Case No : C.A. No. 5023 of 1985

Mohamad Kavi Mohamad Amin

APPELLANT

Vs

Fatmabai Ibrahim

RESPONDENT

Date of Decision : 22-08-1996

Acts Referred:

Bombay Tenancy and Agricultural Lands Act, 1948 — Section 63, 84C

Citation : (1997) 6 SCC 71

Hon'ble Judges : N. P. Singh, J;K. Venkataswami, J

Bench : Division Bench

Final Decision : Allowed

Judgement

The Order of the Court is as follows.

1. The Appellant by two registered sale deeds dated 11-12-1972 and 28-12-1972 purchased from the Respondent Survey Plot No. 53 measuring an area of Ac. 3.06 gunthas and Survey Plot No. 372/1 + 2 measuring an area of Ac. 3.18 gunthas. On the basis of aforesaid purchase the name of the Appellant was mutated in the record of rights on 14-2-1973. It appears that in September 1976 the Mamlatdar of the area concerned initiated a suo motu enquiry u/s 84-C of the Bombay Tenancy and Agricultural Lands Act, 1948 as applicable to the State of Gujarat, (hereinafter to be referred to as "the Act") in respect of the validity of the aforesaid sale deeds. On 29-4-1977 the Mamlatdar held that the sales in question were invalid as the Appellant was not an agriculturist belonging to the State of Gujarat. The appeal, revision and the writ petition filed against the aforesaid order have been dismissed.

2. Although Mr. Bhasme, Learned Counsel appearing for the Appellant took a stand that u/s 63 of the Act aforesaid, there should not be any discrimination amongst the agriculturists with reference to the State to which such agriculturist belongs. But according to him even without going into that question the impugned order can be set aside on the ground that suo motu power has not

been exercised within a reasonable time. Section 84-C of the Act does not prescribe any time for initiation of the proceeding. But in view of the settled position by several judgments of this Court that wherever a power is vested in a statutory authority without prescribing any time-limit, such power should be exercised within a reasonable time. In the present case the transfer took place as early as in the year 1972 and suo motu enquiry was started by the Mamlatdar in September 1973. If sale deeds are declared to be invalid the Appellant is likely to suffer irreparable injury, because he has made investments after the aforesaid purchase.

3. In this connection, on behalf of the Appellant reliance was placed on a judgment of Justice S.B. Majmudar (as he then was in the High Court of Gujarat) in *State of Gujarat v. Jethmal Bhagwandas Shah* (Spe. WA No. 2770 of 1979) disposed of on 1-3-1990, where in connection with Section 84-C itself it was said that the power under the aforesaid section should be exercised within a reasonable time. This Court in connection with other statutory provisions, in the case of *State of Gujarat v. Patil Raghav Natha* (1969 Indlaw SC 176 : 1969 Indlaw SC 176) and in the case of *Ram Chand v. Union of India* (1994 (1) SCC 4) has impressed that where no time-limit is prescribed for exercise of a power under a statute it does not mean that it can be exercised at any time; such power has to be exercised within a reasonable time. We are satisfied that in the facts and circumstances of the present case, the suo motu power u/s 84-C of the Act was not exercised by the Mamlatdar within a reasonable time.

4. Accordingly, the appeal is allowed. The impugned orders are set aside. No costs.

5. Appeal allowed.