

(1992) 09 SC CK 0096

In the Supreme Court Of India

Case No : Civil Appeals Nos. 852 To 912 Of 1972

State of Gujarat

APPELLANT

Vs

Mohan Saradha and Others

RESPONDENT

Date of Decision : 10-09-1992

Acts Referred:

Citation : (1995) 4 SCC 544 Supp

Hon'ble Judges : N. M. Kasliwal, J;Kuldip Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Under the Bombay Land Revenue Code, 1879 (Code) it is the Collector who has the jurisdiction to dispose of Bet or Bhatha lands in the State of Gujarat. The Government issued instructions dated December 28, 1966 to the Collector not to renew the leases in respect of Bet or Bhatha lands. The lease holders challenged the validity of the Government instructions on various grounds. A Division Bench of the Gujarat High Court following its earlier judgment (1970) 11 Guj LR 386 - wherein the above said Government instructions were struck down - allowed the writ petitions. These are State appeals against the judgment of the Gujarat High Court. The learned counsel appearing for the State of Gujarat does not want us to go into the question regarding the validity of the Government instructions. We, therefore, leave the question open without expressing any opinion either way.

2. The only contention raised by the learned counsel is based on the following directions issued by the High Court:

"The Government and the revenue authorities are directed not to take into account this ultra vires Circular while considering this question of renewal of land or disposal of Bet and Bhatha lands in question and also not to dispossess the petitioners except in due course of law without first determining the question of renewal or disposal of this lands in accordance with law."

We see no ambiguity in the above quoted directions given by the High Court. The

directions are in conformity with the rule of fair-play. Before dispossessing the respondents who are occupying the lands the Collector shall take a decision whether the leases in their favour are to be renewed. In case the Collector decides not to renew their leases then the Collector is at liberty to evict the respondents in terms of the provisions of the Code. The appeals, are, therefore, dismissed with above observations. No costs.