(2011) 02 GUJ CK 0110

In the Gujarat High Court

Case No : Special Civil Application No. 5694 of 1998

State of Gujarat APPELLANT

Vs

Thakor Naransingh Fatehsingh and Another RESPONDENT

Date of Decision : 03-02-2011

Acts Referred:
Gujarat Agricultural Lands Ceiling Act, 1960 — Section 18, 20(2), 21, 37

Citation : (2011) 02 GUJ CK 0110

Hon'ble Judges : M.B. Shah, J

Bench : Single Bench

Advocate : L.R. Poojari, AGP, for the Appellant; Rule Served, for the Respondent

Final Decision : Dismissed

Judgement

M.D. Shah, J.—Though served, nobody appears for the Respondents.

2. By this petition, the applicant - State of Gujarat has prayed for appropriate order to quash and set aside the order dated 01.02.1996 passed by the Gujarat Revenue Tribunal, Ahmadabad in Revision Application No.TEN/BA/226 of 1995 by which Gujarat Revenue Tribunal allowed the revision application preferred by the Respondents herein.

3. Facts of the case are as under:

3.1. Respondents herein were holding together land of Acre 49 and 39 Gunthas. The Respondents herein did not fill Form No.2 declaring their agricultural land holding as required under the Gujarat Agricultural Land Ceiling Act, 1960 (for short ''the Act'') and therefore, they were find Rs.100/- which was paid by them on 08.02.1993 and the Respondents were also directed to fill in requisite form along with the affidavit regarding their agricultural land holding. However, they did not fill the form. Thus, the applicant authority felt that the Respondents herein were holding land in excess of the ceiling area and therefore, inquiry u/s 21 of the Act was initiated by the Additional Mamlatdar & ALT , Chhotaudepur being Ceiling Case No.2 of 1990 and he passed order dated 10.12.1993 whereby he withdrew the notice issued u/s 20(2) of the Act and closed the inquiry. The said order was taken in suo mou revision by the Deputy Collector, Chhotaudepur u/s 37 of the Act being Ceiling Revision Case No.2 of 1994 and passed order dated 20.02.1995 declaring 3 Acre 07 Gunthas to be surplus land in the holding of the Respondents. Being aggrieved by the said order, Respondents herein preferred Revision Application No.TEN/BA/226 of 1995 before the Gujarat Revenue Tribunal, Ahmadabad. After hearing both the parties, by order dated 01.02.1996, Gujarat Revenue Tribunal, Ahmadabad allowed the said revision and quashed and set aside the order dated 20.02.1995 passed by the Deputy Collector, Chhotaudepur in Ceiling Revision Case No.2 of 1994. Being aggrieved by the said order, present petition is filed by the applicant herein - State of Gujarat.

4. Mr.L.R.Poojari, learned AGP appearing on behalf of the applicant herein - State of Gujarat invited attention of this Court to order dated 10.12.1993 passed by the Additional Mamlatdar & ALT, Chhtaudepur in Ceiling Case No.2 of 1990; order dated 20.02.1995 passed by the Deputy Collector, Chhotaudepur in Ceiling Revision Case No.2 of 1994 and order dated 01.02.1996 passed by the Gujarat Revenue Tribunal, Ahmadabad in Revision Application No.TEN/BA/226 of 1995. It is submitted by Mr.Poojari, learned AGP that Deputy Collector has rightly exercised his suo motto Provisional power u/s 37 of the Act. The Deputy Collector has passed the order after appreciating the evidence on record of the case and also after examining the additional evidence. It is further submitted that the Tribunal without considering this aspect has erred in quashing and setting aside the order passed by the Deputy Collector. It is also submitted that order passed by Mamlatdar and ALT closing the case by giving benefit of section 18 of the Act was not in consistence with the provisions of the Act. Therefore, it is submitted that impugned order dated 01.02.1996 passed by the Revenue Tribunal, Ahmadabad is illegal and therefore, is required to be quashed and set aside. By making above submissions, it is requested to allow the present petition.

5. This Court has gone through the order dated 10.12.1993 passed by the Additional Mamlatdar & ALT, Chhtaudepur in Ceiling Case No.2 of 1990; order dated 20.02.1995 passed by the Deputy Collector, Chhotaudepur in Ceiling Revision Case No.2 of 1994 and order dated 01.02.1996 passed by the Gujarat Revenue Tribunal, Ahmedabad in Revision Application No.TEN/BA/226 of 1995. It is observed by the Tribunal in its order that after considering the evidence on record, it appears that Deputy Collector has collected evidence in suo moto proceedings by recording evidence of Mulendrasingh Naran Singh Chauhan who is the power of attorney holder of Respondents herein, which he ought not to have done. It is further observed by the Tribunal that Mamlatdar and ALT has withdrawn the notice issued against the present Respondents on different ground but the Respondents herein are entitled to additional 2/5th of Unit as on 01.04.1976 and therefore, there is no question of any land remaining excess. It is observed by the Mamlatdar in its order dated 10.12.1993 that 3 Acre and 7 Gunthas excess land was possessed by the Respondents herein. It is also

observed by the Mamlatdar in its order dated 10.12.1993 that another piece of land in Survey No.8 being 1 Acre and 17 which was in the name of the Respondents herein was taken over by the Government by entry No.277 dated 04.08.1978 and if this land is adjusted, only 1 Acre and 30 Gunthas of land is required to be released. It is also observed by the Mamlatdar in its order dated 10.12.1993 that taking into consideration small piece of land, it cannot be used for public purpose and therefore, Mamlatdar has held that same so is not required to be declared as excess under the Ceiling Act and dropped the proceedings.

6. In opinion of this Court, after taking into consideration evidence on record, Mamlatdar has rightly passed the order and Deputy Collector was not required to interfere with the order passed by the Mamlatdar. The Tribunal has not committed any error in passing order dated 01.02.1996 in Revision Application No.TEN/BA/226 of 1995 and rightly quashed and set aside the order dated 20.02.1995 passed by the Deputy Collector, Chhotaudpur in Ceiling Revision Case No.2 of 1994.

7. For the reasons stated above, this petition requires to be dismissed and accordingly it is dismissed. Rule discharged.