IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 480 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No

BHAGWANSINH DHANJIBHAI SOLANKI

Versus

JAGATSINH SHIVABHAI MAKWANA

Appearance:

Shri A.J. Patel, Advocate, for the Petitioner

Shri M.C. Shah, Advocate, for the Respondents

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 31/08/96

ORAL JUDGEMENT

The decision rendered by the Gujarat Revenue Tribunal at Ahmedabad (the Tribunal for convenience) on 15th October 1985 in Revision Application No. TEN.B.A. 1016 of 1983 is under challenge in this petition under art. 227 of the Constitution of India. By its impugned

decision, the Tribunal quashed and set aside the order passed by the Deputy Collector at Petlad (the Appellate Authority for convenience) on 31st May 1983 in Tenancy Appeal No. 49 of 1983. By his aforesaid order, the Deputy Collector set aside the order passed by the Mamlatdar and Agricultural Lands Tribunal at Borsad (the First Authority for convenience) on 25th June 1979 in Tenancy Case No. Dahewan-138 of 1977.

2. The facts giving rise to this petition move in a narrow compass. The petitioner made an application under sec. 70(b) and sec. 70(nb) of the Bombay Tenancy and Agricultural Lands Act, 1948 (the Act for brief) with respect to two parcels of land bearing survey No. 1205 admeasuring 2 acres 05 gunthas and survey No. 1167 (part) admeasuring 0 acre 26 gunthas from the entire area of 2 acres 38 gunthas situated at village Dahewan taluka Borsad (the disputed lands for convenience). It came to be registered as Tenancy Case No. Dahewan-138 of 1977. After recording evidence and hearing the parties, by his order passed on 25th June 1979 in the aforesaid tenancy case, the first authority rejected the petitioner's application. Its copy is at Annexure A to this petition. The aggrieved petitioner carried the matter in appeal before the appellate authority under sec. 74 of the Act. It came to be registered as Tenancy Appeal No. 49 of 1983. By the order passed on 31st may 1983 in the aforesaid appeal, the appellate authority accepted the appeal and set aside the order passed by the first authority at Annexure A to this petition. Its copy is at Annexure B to this petition. That aggrieved the respondents herein. They carried the matter in revision before the Tribunal under sec. 76 of the Act. It came to be registered as Revision Application No. TEB.B.A. 1016 of 1983. By its decision rendered on 15th March 1985 in the aforesaid revisional application, the Tribunal accepted it and set aside the order passed by the appellate authority at Annexure B to this petition. Its copy is at Annexure C to this petition. The aggrieved petitioner has thereupon approached this Court by means of this petition under art. 227 of the Constitution of India for questioning the correctness of the decision at Annexure C to this petition.

3. Learned Advocate Shri Patel for the petitioner has submitted that the Tribunal was not justified in interfering with the finding of fact recorded by the appellate authority without any rhyme or reason. He has further urged that the impugned decision of the Tribunal is not supported by reasons and it deserves to be quashed and set aside on that ground alone. As against this,

learned Advocate Shri Shah for the respondents has urged that it is open to the Tribunal to interfere with the finding of fact recorded by the appellate authority in view of the relevant provisions contained in sec. 76 of the Act. He has further urged that the impugned decision of the Tribunal cannot be said to be containing no reasons.

4. It is not necessary for me to examine the question whether or not the Tribunal was justified in interfering with the finding recorded by the appellate authority by the order at Annexure B to this petition. I have therefore not thought it fit to deal with the rulings cited at the Bar by both the learned advocates in support of their rival contentions. I have done so because this petition can be disposed of on the ground that the decision of the Tribunal at Annexure C to this petition is a non-speaking decision.

5. The decision of the Tribunal at Annexure C to this petition runs into nearly 12 pages. Ten pages out of 12 pages are devoted to narration of facts and recording of submissions urged before the Tribunal by the respective advocates of the parties. It may be noted that the appellate authority in his order at Annexure B to this petition has examined the case at length. The Tribunal has upset the appellate order at Annexure C to this petition by just observing that the different interpretation of the material on record given by the appellate authority was not proper. The decision at Annexure C to this petition is completely silent as to how the appreciation of the material on record made by the appellate authority was not according to law. The Tribunal has not chosen to examine whether or not the findings recorded by the appellate authority were in any way perverse or contrary to the evidence on record. The Tribunal has not found any fault with the procedure adopted by the appellate authority in deciding the appeal. The Tribunal has simply taken note of one panchnama regarding erection of a new hutment in the place of some old hutment in the disputed lands. The Tribunal has not chosen to consider its effect on the merits of the case. The conclusion reached by the Tribunal that the appellate order at Annexure B to this petition was not legal and valid is just ipse dixit. That conclusion is not supported by any cogent or convincing reasons worth the name. The decision of the Tribunal can thus be said to be a non-speaking decision.

6. In this connection, a reference deserves to be made to the binding ruling of the Supreme Court in the

case of The Siemens Engineering and Manufacturing Co. of India Ltd. v. The Union of India and another reported in AIR 1976 SC 1785. It has been held therein:

> It is now settled law that where an authority makes an order in exercise of a quasi-judicial function, it must record its reasons in support of the order it makes. Every quasi-judicial order must be supported by reasons.
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> xxx xxx xxx
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> The rule requiring reasons to be given in support of an order is, like the principle of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law.

In view of the aforesaid binding dictum of law pronounced by the Supreme Court in its aforesaid ruling, the impugned decision of the Tribunal at Annexure C to this petition cannot be sustained in law.

7. In view of my aforesaid discussion, I am of the opinion that the impugned decision at Annexure C to this petition deserves to be quashed and set aside. The matter deserves to be remanded to the Tribunal for restoration of the proceeding to file and for its fresh decision according to law in the light of the aforesaid binding ruling of the Supreme Court.

8. In the result, this petition is accepted. The decision rendered by the Gujarat Revenue Tribunal at Ahmedabad (respondent No.1 herein) on 15th October 1985 in Revision Application No.TEN.B.A. 1016 of 1983 at Annexure C to this petition is quashed and set aside. The matter is remanded to the Tribunal for restoration of the proceeding to file and for its fresh decision according to law in the light of this judgment of mine. Since the matter is very old, the Tribunal will dispose it of as expeditiously as possible preferably by 31st December 1996. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.
