

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1851 of 1999
with
SPECIAL CIVIL APPLICATION NO.9952 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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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? : YES
 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 concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

SONI GANPATLAL PUNJIRAM

Versus

ASSISTANT COLLECTOR

Appearance:

1. Special Civil Application No. 1851 of 1999 & 9952/04
MR JV JAPEE for Petitioner No. 1-6
Ms.Pandit, Asst.GOVERNMENT PLEADER for Respondent No. 1-3
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CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 30/09/2004

ORAL JUDGEMENT

The petitioners in these petitions are challenging the orders passed by the Collector whereby the land is ordered to be surrendered to the administration on the ground that there is no cultivation over the land.

2. Upon hearing the learned counsel appearing for the petitioners as well as Ms.Pandit, Ld.AGP for respondent authorities, it appears that there is no dispute on the point that the petitioners herein are not given the opportunity of hearing before passing the impugned orders by the Asst.Collector, It is further the case of the petitioners that some of them have purchased the property by registered sale deed and some of them are occupying the land as legal representatives of the original holders of the land. In any event, the fact remains that if the petitioners are occupiers of the land in question, it is obligatory on the part of the authorities to give opportunity of hearing, and since opportunity of hearing is not given to the affected persons, the order can not be maintained in law and would be rendered illegal for non-compliance of the principles of natural justice which is the basic requirement for exercise of powers by the Assistant Collector. Hence, no further discussion is required in the matter.

3. In view of the above, the impugned orders passed by the Asst.Collector against the petitioners herein qua the land which is in occupation of the petitioners are hereby quashed and set aside with further observations that it would be open to the Asst.Collector to issue formal show cause notice to the concerned petitioner and to give opportunity of hearing and then to pass appropriate orders in accordance with law.

4. Both the petitions are allowed accordingly. Rule in each petition is made absolute to the aforesaid extent. Considering the facts and circumstances there shall be no order as to costs.

30.9.04 (JAYANT PATEL,J)