

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 20974 of 2005
with
SPECIAL CIVIL APPLICATION No. 20975 of 2005
with
SPECIAL CIVIL APPLICATION No. 20977 of 2005
with
SPECIAL CIVIL APPLICATION No. 20979 of 2005
with
SPECIAL CIVIL APPLICATION No. 20980 of 2005
with
SPECIAL CIVIL APPLICATION No. 21047 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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VASAVA HANDHIA TETIA - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR JOY MATHEW for Petitioner(s) : 1,
MS FALGUNI PATEL, AGP for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 1 - 4.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 31/08/2006

COMMON ORAL JUDGMENT

1. The petitioners have preferred the petitions for relief inter alia to permanently restrain the respondents from interfering with the possession and occupation of the petitioners over the lands, which are mentioned in the concerned petitions. The petitioners have also prayed to direct the respondent authorities to regularise the cultivation of the petitioners.
2. When the matter is taken up for final hearing, Mr. Mathew, learned counsel appearing for petitioners, in all the petitions states that pending the petitions, the State Government has issued Circular dated 19.12.2005 based on the resolution of the Government of India dated 03.11.2005 to the effect that whenever the forest tribal is in possession of any forest land, the matter should be examined by the Committee at the Gram Panchayat level and thereafter, at the Taluka level, and thereafter, at the District Panchayat level and if the possession is found as that of prior to 25.10.1980, such possession should be regularised. He has placed on record the resolution of the Government dated 19.12.2005.

He further submitted that based on the said Resolution of the State Government, the petitioners have approached to the concerned Committee for the purpose of regularisations that their land and the matter is pending before the concerned Committee. Therefore, he submitted that the petitioners are not pressing the petitions at this stage, in view of the pendency of the applications made by the petitioners before the concerned Committee in pursuance of the Resolution of the State Government dated 19.12.2005.

3. Mr. Mathew further submitted that he has not received a positive instruction in this regard, so far as the petitioners of Special Civil Application No. 21047 of 2005 is concerned. However, if the application is not made before the Committee, the concerned petitioners of Special Civil Application No. 21047 of 2005 shall make the application within a period of two weeks from today.

4. Mr. Mathew further submitted that though there is no interim order passed in the present petitions in pursuance of the Government of India's communication to all the State Government dated 12.05.2005, until such question of eligibility is decided by the concerned Committee, the petitioners tribal may not be evicted from the land in question.

5. He also submitted that in the event, the decision of the Committee is adverse to the petitioners, the petitioners may be at the liberty to resort to appropriate proceedings before the appropriate forum. He has placed on record the copy of the communication dated 12.05.2005 issued by the Government of India to all State Government.

6. In view of the above, as declared by the petitioners, since the petitioners have approached before the concerned Committee in pursuance of the Government Resolution dated 19.12.2005, all the petitions are disposed of as not pressed. However, if the applications made by the petitioners are pending as on today and if the application is made by the petitioners of Special Civil Application No. 21047 of 2005 within a period of two weeks from today, before the concerned Committee, it is directed that the respondent State Government or its officers shall act as per the communication dated 12.05.2005 issued by the Government of India for not to evict the tribal, until the decision is taken by the concerned Committee.

7. Petitions are disposed of accordingly. It is hardly required to be clarified that in the event any adverse order is passed by the concerned Committee against the petitioners, the

petitioners may have the remedy as may be permissible in law, since the same would be a fresh cause of action.

(JAYANT PATEL, J.)

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