

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 7445 of 2004****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE G.R.UDHWANI**

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
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 ?	NO
5	Whether it is to be circulated to the civil judge ?	NO
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STATE OF GUJARAT....Petitioner(s)

Versus

ZALA NARENDRASINH VIJAYSINH SINCE DECEASED &

3....Respondent(s)

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Appearance:

MR NIRAJ ASHAR, AGP for the Petitioner(s) No. 1

MR RN SHAH, ADVOCATE for the Respondent(s) No. 1.1 , 2 - 4

NOTICE SERVED for the Respondent(s) No. 1.1 , 2 - 4

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CORAM: HONOURABLE MR.JUSTICE G.R.UDHWANI**Date : 28/02/2013**

ORAL JUDGMENT

1. This petition under Article 227 of the Constitution of India is filed for questioning the order dated 25.6.1992 passed by Gujarat Revenue Tribunal, Ahmedabad in Revision Application No.158 of 1994 holding that the respondent did not possess excess vacant land under the provisions of the Gujarat Agricultural Land Ceiling Act, 1960, as amended in 1972 (for short “the Act”).

2. The short dispute raised by the State in this petition is with regard to calculation of the land standing in the name of Laxmikuvarba as on 24.1.1971 and 1.4.1976 i.e. appointed date on which the amendment came into force. It was submitted that all the authorities below miscalculated the holdings of said Laxmikuvarba, who, in fact held under Khata No.94, a total land ad-measuring 47 Acres – 28 Gunthas, and the land being categorised as Category “D”, the permissible holding was only 39 Acres, and thus, there was an excess land, and therefore it is submitted that the impugned order passed in the revision by the Gujarat Revenue Tribunal is required to be interfered with by this Court.

3. As against that, learned counsel for the respondent submitted that, in fact, between 24.1.1971 and 1.4.1976, there was no sale of any of the lands, and all the authorities below

after properly appreciating the fact and the law have recorded a factual finding to an effect that there was no excess land. He also submitted that, in view of the fact that there was no excess land, the question of inquiry under Sections 7 and 8 of the Act was out of question.

4. The petitioner-State has produced the statement of holdings in the petition wherein it is the case of the petitioner that Laxmikuvarba possessed 23 Acres – 18 Gunthas in Hansalpur Khata No.94 paiki and 0.21 Gunthas in the same account. It was submitted by learned AGP that the petitioner is concerned with the land of Hansalpur Khata No.94, and thus, as per the pleadings made by the petitioner, Laxmikuvarba was holding about 23 Acres of land, and it appears that said 23 Acres of land being below the ceiling limit, has been transferred by her. This transfer appears to have been treated as in violation of the provisions referred to above on the presumption that they were transferred after 24.1.1971. This issue was addressed by all the authorities below who recorded a concurrent finding holding that there was no excess land, and therefore, it is rightly contended by the learned counsel for the respondent that, even if such land was sold after the aforesaid date, there was no question of invoking the powers under Sections 7 and 8 of the Act.

5. Further the impugned order was passed on 18.3.2002

and petition is preferred on 24.06.2004 with no plausible explanation of inordinate delay and therefore it deserves to be dismissed on this count alone.

6. In view of above discussion, there is no scope for this Court to interfere with under Article 227 of the Constitution of India wherein concurrent findings rendered by the authorities below are unimpeachable. This Court, therefore, does not find any merit in this petition. The petition is, therefore, dismissed. Rule is discharged with no order as to costs. Interim relief, if any, granted earlier shall stand vacated.

(G.R.UDHWANI, J.)

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