

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 14070 of 2017**

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NAGALBEN DAHYABHAI & 6....Petitioner(s)

Versus

STATE OF GUJARAT & 5....Respondent(s)

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Appearance:

MR KIRIT R PATEL, ADVOCATE for the Petitioner(s) No. 1-7

MR UTKARSH SHARMA, AGP for the RESPONDENT(s) No. 1

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CORAM: **HONOURABLE MR.JUSTICE J.B.PARDIWALA****Date : 01/08/2017****ORAL ORDER**

By this application under Article 227 of the Constitution of India, the applicants have prayed for the following reliefs :

“(A) Your Lordships be pleased to issue a writ of mandamus/certiorari or writ in the nature of mandamus/certiorari or any other appropriate writ, order or direction and be pleased to quash and set aside the impugned order dated 20.5.2017 passed by Respondent no.1 in Revision Application No.MVV/JAMAN/MARAB/54/2016, order dated 18.1.2016 passed by Respondent no.2 in Land/Appeal/ Case No.10/14-15, order dated 16.9.1988 passed by Deputy Collector in Case No.45/85 and further be pleased, in interest of justice;

(B) Your Lordships be pleased to stay the operation, implementation and execution of the impugned order dated 20.5.2017 passed by Respondent no.1 in Revision Application No.MVV/JAMAN/MARAB/54/2016, order dated 18.1.2016 passed by Respondent no.2 Collector in Land/Appeal/Case No.10/14-15, order dated 16.9.1988 passed by Deputy Collector in Case No.45/85 and further be pleased to direct the Respondents to maintain status quo qua the possession of petitioners over the subject land and the revenue records, pending the admission, hearing and final disposal of this petition;

(C) Your Lordships be pleased to grant any other and further reliefs in the interest of justice;"

The SSRD, while affirming the order passed by the Collector, has observed as under :

"Considering the submissions made by the parties and considering the impugned order passed by the Collector, it seems that since the allotment of the land under the 'santhni', the disputed land has remained as waste land. Even, the applicants are also not residing in the village. Therefore, it seems that they are not cultivating the said land. There is an insignificant appreciation in the price of the agricultural land and the standard of living has also improved. Therefore, the demand made by the applicants to get back the land cannot be considered. If they intend to get the land only for the purpose of agriculture then why they did not initiate any proceeding, this also raises a doubt. Whether the applicants are involved in the agricultural activities ? and whether they

have any other source of livelihood except agriculture ? and they earn their livelihood through agricultural activities ? are the questions, which they have not clarified and adduced evidence in this regard. In addition, they have filed an appeal in the court of the Collector on 18.9.2014 after an inordinate delay of about 26 years against the order of the Deputy Collector, Morbi, dated 16.9.1988. Therefore also, looking to the inordinate delay, the appeal filed by the applicants cannot be considered. Moreover, they have not even adduced any supporting document showing the inordinate delay in filing the appeal. They have also not produced any supporting evidence in connection with their application for re-grant of the land for the purpose of agriculture after having remained landless for this many years. It does not sound good to give them an opportunity to cultivate the land for agriculture purpose only because they have moved an application in this regard. Considering all these aspects in mind, the demand of the applicants does not require to be considered. The opinion given by the Collector is well-founded. The order passed by the Deputy Collector in the year 1988 is challenged in the year 2014, i.e. after 28 years, when the Government was put in possession. There are no clear and reasonable grounds shown for the delay. The Law helps those who are vigilant. The Hon'ble Supreme Court as well as the High Courts' decisions are required to be taken into consideration. AIR 1981 SC – 733 – 1981, CRI.L.J. 293, 1982 GLH 6824, 2009 CRIMES (HC) 523, 1995(1) GLH 549, 2003(2) GCD (UJ) 68, 1999(4) GCD 2822, AIR 1999 GUJ 147.

The Collector has given his opinion that since the grant of the land, the same has remained wasted. Taking into consideration the same, the demand of the applicants cannot be considered and, therefore, the following order is passed :"

In view of the findings recorded by the SSRD, I see no good reason to interfere in exercise of my supervisory jurisdiction under Article 227 of the Constitution of India.

This application, therefore, fails and is hereby rejected.

(J.B.PARDIWALA, J.)

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