

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 10712 of 2017**

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PARSHOTTAMBHAI LAXMANBHAI LAD

Versus

STATE OF GUJARAT & 5 other(s)

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Appearance:

MS SONAL D VYAS(999) for the Petitioner(s) No. 1

MR. ADITYA SINH JADEJA, AGP for the Respondent(s) No. 1,2,3,4

NOTICE SERVED(4) for the Respondent(s) No. 5,6

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CORAM: **HONOURABLE MR.JUSTICE A.S. SUPEHIA**

Date : 28/02/2020

ORAL ORDER

[1.0] Rule returnable forthwith. Learned Assistant Government Pleader Mr. Dhawan Jayswal waives service of notice of Rule on behalf of the respondents No. 1 to 4.

[2.0] With the consent of the learned advocates for the respective parties, the matter is taken up for final hearing.

[3.0] In the present writ petition, the petitioner has, *inter alia*, prayed for the following prayers;-

“(B) YOUR LORDSHIPS may be pleased to issue a writ of certiorari and/or writ, direction or order in the nature of the writ of certiorari quashing and setting aside the judgment and order passed by the respondent No 1 below revision No. 04 of 2006 at Annexure-L to the petition.

(C) Your Lordships may be pleased to direct the respondent No. 1 to regularize the possession of the land situated at Survey No. 6/7 and 6/5 at Village: Lilapor, Ta. & Dist.:Valsad, s per the proposal of the learned Collector, Valsad dated 18.10.2001.

[4.0] At the outset, learned advocate Ms. Sonal Vyas appearing for the petitioner has invited the attention of this Court to the observations made by the Collector, Valsad in the impugned order dated 29.07.2006 that the order passed by the Mamlatdar, Valsad dated 30.06.2002 with regard to the regularization of the land in question is maintained, subject to the result of the decision of Regular Civil Suit No. 49 of 2002. She has submitted that the aforesaid order dated 29.07.2006 was further challenged by way of Revision Application No. MVV/JMN/VLS/4/2006 before the Special Secretary, Revenue Department, Ahmedabad (S.S.R.D.) and by the impugned order dated 14.03.2017, the revision application has been rejected on the ground that the civil suit is still pending before the Civil Court. She has further submitted that before the impugned order dated 14.03.2017 was passed by the S.S.R.D. and after the order passed by the Collector, Valsad, Regular Civil Suit No. 49 of 2002 has been decided in favour of the present petitioner by the judgment and order dated 29.03.2007. Thus, she has submitted that the respondent authorities may be directed to implement the judgment and decree of the Court of 2nd Additional Senior Civil Judge, Valsad.

[5.0] Learned Assistant Government Pleader Mr. Jadeja is unable to dispute the judgment and decree passed by the Civil Court in the Regular Civil Suit No. 49 of 2002, which is passed in favour of

the petitioner. She has submitted that before the District Collector, Valsad passed the order dated 29.07.2006, the Civil Suit was not yet decided and it appears that the S.S.R.D. passed the order on a the premise that the civil suit is pending.

[6.0] The issue raised in the present petition is confined in a narrow compass and is premised on the judgment and decree dated 29.03.2007 passed by the 2nd Additional Senior Civil Judge, Valsad in Regular Civil Suit No. 49 of 2002. By the judgment and decree dated 29.03.2007, the Civil Suit instituted by the petitioner is allowed to the extent that the land in question has been regularized in favour of the petitioner. The Collector, Valsad, while passing the impugned order dated 29.07.2006, has confirmed the order passed by the Mamlatdar, Valsad with regard to the regularization of the land, subject to the result of Regular Civil Suit No. 49 of 2002. The same was further challenged by the petitioner before the S.S.R.D. and a mere glance of the impugned order dated 14.03.2017 passed by the S.S.R.D. reveals that the same is passed on an incorrect fact that the civil suit is still pending. Thus, the impugned order dated 14.03.2017 is required to be quashed and set aside. It is not in dispute that the aforesaid judgment and decree passed by the Court of 2nd Additional Senior Civil Judge had become final.

[6.0] Under the circumstances, since the judgment and decree passed by the Civil Court has become final, the respondent authorities are directed to give effect to the aforesaid judgment and decree and regularize the possession of the lands situated in Survey No. 6/7 and 6/5 situated at Village: Lilapor, Taluka & District: Valsad in favour of the present petitioner. Appropriate order shall be passed within a period of two (02) months from the date of receipt of the writ of this Court. The writ petition is allowed. Rule is made to the aforesaid extent.

(A. S. SUPEHIA, J)

VISHAL MISHRA