

Armratji Chanduji Thakore vs Dilipbhai Galabji Thakore & on 23 March, 2017

Author: R. Subhash Reddy

Bench: R.Subhash Reddy, Vipul M. Pancholi

C/LPA/469/2017

ORDER

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 469 of 2017

In SPECIAL CIVIL APPLICATION NO. 20115 of 2016

With

CIVIL APPLICATION NO. 4242 of 2017

In

LETTERS PATENT APPEAL NO. 469 of 2017

With

LETTERS PATENT APPEAL NO. 470 of 2017

In

SPECIAL CIVIL APPLICATION NO. 20114 of 2016

With

CIVIL APPLICATION NO. 4244 of 2017

In

LETTERS PATENT APPEAL NO. 470 of 2017

With

LETTERS PATENT APPEAL NO. 471 of 2017

In

SPECIAL CIVIL APPLICATION NO. 20096 of 2016

With

CIVIL APPLICATION NO. 4247 of 2017

In

LETTERS PATENT APPEAL NO. 471 of 2017

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ARMRATJI CHANDUJI THAKORE....Appellant(s)

Versus

DILIPBHAI GALABJI THAKORE & 11....Respondent(s)

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Appearance:

LETTERS PATENT APPEAL NOS.469 AND 471 OF 2017

MR ANSHIN DESAI, SR.ADV. WITH MR MAYUR RAJGURU and MR SALIM M

SAIYED, ADVOCATES for the Appellant(s) No. 1
MR RS SANJANWALA, SR. ADV. WITH MR PARTHIV B SHAH, CAVEATOR

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C/LPA/469/2017

for the Respondent(s) No. 1
MR DM DEVNANI, AGP for State Authorities in LPA No.469 of 2017
MR DHAWAN JAYSWAL for State Authorities in LPA No.471 of 2017

LETTERS PATENT APPEAL NO.470 OF 2017
MR AJ YAGNIK WITH MR MAYUR RAJGURU and MR SALIM M SAIYED,
ADVOCATES for the Appellant(s) No. 1
MR RS SANJANWALA, SR. ADV. WITH MR PARTHIV B SHAH, CAVEATOR for the
Respondent(s) No. 1
MR DM DEVNANI, AGP for State Authorities
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CORAM: HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH
REDDY
and
HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI

Date : 23/03/2017

COMMON ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY) Heard learned Senior Advocate, Mr.Anshin Desai with learned advocates, Mr.Mayur Rajguru and Mr. Salim M. Saiyed for the appellant in Letters Patent Appeal Nos.469 and 471 of 2017; learned advocates, Mr. A.J.Yagnik, Mr. Mayur Rajguru and Mr. Salim M. Saiyed for the appellant in Letters Patent Appeal No.470 of 2017; learned Senior Advocate, Mr. R.S.Sanjanwala with learned advocate, Mr.Parthiv B.Shah, for private respondent No.1 in all three LPAs., learned Assistant Government Pleader, Mr. D.M.Devnani, for state authorities in LPA Nos.469 and 470 of 2017 and learned Assistant Government Pleader, Mr.Dhawan Jayswal for state authorities in LPA No.471 of 2017.

Admit. Expedite.

HC-NIC Page 2 of 4 Created On Tue Aug 15 03:01:19 IST 2017 In the Special Civil Applications, challenge is to the order dated 06.10.2016 passed by the respondent No.1 in the petition i.e. Special Secretary(Appeals), Revenue Department ('SSRD' for short) to the extent of directions issued by the Deputy Collector(East), Ahmedabad, to hear the revisions and decide the same on merits. Disputes relate to mutation entries bearing Nos.1534 dated 26.03.1993 and 1643 dated 30.08.1993. The

entries made in favour of the appellant were ordered to be corrected after 18 years of making the entries by allowing the appeals filed by the private respondent by the Deputy Collector. The said order was confirmed by the Collector. When the same was further challenged before SSRD, the same was withdrawn conditionally. By accepting the condition, withdrawal was permitted. The learned Single Judge has set aside the order of the SSRD and issued a Writ of Prohibition prohibiting the Deputy Collector from hearing RTS Appeal Nos.182 of 2016 and 185 of 2016. After hearing the learned counsels, prima facie we are of the view that SSRD has passed order permitting withdrawal of the revisions filed by the appellant, when such condition is to be set aside, in normal course, matter has to go back to the revisional authority for adjudication on merits. At the same time, we are of the view that it is not a case for issuance of Writ of Prohibition prohibiting the Deputy Collector from proceeding in the matters.

In that view of the matter, there shall be interim relief in terms of paragraph No.5(B) in Civil Applications for stay, with a further direction to the respondents to HC-NIC Page 3 of 4 Created On Tue Aug 15 03:01:19 IST 2017 maintain status quo with regard to disputed revenue entries and possession of the land in question as on today till further order. At the same time, the Deputy Collector shall not proceed further in the matters, until further orders.

After the above said order is passed, learned Senior Advocate, Mr.R.S.Sanjanwala, requested to stay the implementation of the aforesaid order for some time to approach the higher forum. However, as the appeal is admitted and only order granting interim relief is passed by this Court pending disposal of the Letters Patent Appeals, we deem it appropriate not a fit case to accede to the request. Request is rejected.

(R. SUBHASH REDDY, CJ) (VIPUL M. PANCHOLI, J.) RADHAN HC-NIC Page 4 of 4 Created On Tue Aug 15 03:01:19 IST 2017