

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 13451 of 2006****With****R/SPECIAL CIVIL APPLICATION NO. 13318 of 2006****With****R/SPECIAL CIVIL APPLICATION NO. 13319 of 2006****With****R/SPECIAL CIVIL APPLICATION NO. 13320 of 2006****With****R/SPECIAL CIVIL APPLICATION NO. 13321 of 2006****With****R/SPECIAL CIVIL APPLICATION NO. 13322 of 2006****With****R/SPECIAL CIVIL APPLICATION NO. 13323 of 2006****With****R/SPECIAL CIVIL APPLICATION NO. 13324 of 2006**=====

DABHI BALUSINH MAGANSINH**Versus****THE STATE OF GUJARAT & 4 other(s)**
=====**Appearance:****MR HIMANSU M PADHYA(1611) for the Petitioner(s) No. 1****ADVOCATE NOTICE SERVED for the Respondent(s) No. 5****MR VIMAL A. PUROHIT WITH MR ALAK A. PANDYA LEARNED
ADVOCATES****MR J. K. SHAH, ASSISTANT GOVERNMENT PLEADER for the
Respondent(s) No. 1****RULE SERVED for the Respondent(s) No. 2,3,4**
=====**CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN****Date : 15/09/2022****COMMON ORAL ORDER**

1. The petitioners, are aggrieved by the orders dated 11.7.2005 as well as 12.5.2006 passed by the Collector and learned Secretary, Revenue Department (Appeals) (hereinafter referred to as "learned Secretary"), respectively.

2. The issue, revolves around the allotment of land in santhani to the petitioners vide order dated 31.1.2004. The said order, was taken in suo motu revision by the Collector who, has passed an order dated

11.7.2005. According to the Collector, the Deputy Collector had not observed the procedure provided in the Government Resolution No.JMN-392003-454(1)-A dated 1.11.2003. The petitioners, being aggrieved, had preferred a revision application before the learned Secretary who, while rejecting the revision application confirmed the order of the Collector dated 11.7.2005.

3. Mr Himanshu M. Padhya, learned advocate, submitted that the order passed by the Deputy Collector is in right earnest and no error has been committed. Since the year 2004 and thereafter by virtue of the order passed by this Court in the year 2006, the petitioners are in possession and cultivating the land in question. It is submitted that the petitioners, being ex army men, are very much eligible and entitled for allotment of land as per the Government Resolution dated 15.2.1989. The petitioners, had applied and that is how, the order dated 31.1.2004 was issued, followed by handing over of the possession to the petitioners. It is submitted that necessary inquiry, was carried out by the Mamlatdar and on the basis of the reports submitted by the Mamlatdar that the order dated 31.1.2004 has been passed by the Deputy Collector. It is therefore urged that considering the eligibility and the fact that the petitioners are in possession of the land and cultivating the same since the year 2004 and thereafter from the year 2006, the petitions be considered.

4. On the other hand, Mr J. K. Shah, learned Assistant Government Pleader, submitted that after the Government Resolution dated 15.2.1989, the Government Resolutions, both dated 1.11.2003 have been issued providing for detailed procedure to be followed by the Deputy Collector before allotting the land of santhani to the applicants. It is submitted that clearly, the said procedure, has not been followed and without following the procedure, the allotment has taken place

which, would be in contravention of the provisions of the Government Resolutions, both dated 1.11.2003. Mr J. K. Shah, learned Assistant Government Pleader, submitted that though the petitioners are claiming that they are cultivating the land; except two cases, in rest of the cases, there is no cultivation taken place which fact, is discern out from the panchnama drawn by the Circle Officer.

5. Mr Vimal A. Purohit, learned advocate appearing with Mr Alak A. Pandya, learned advocate, submitted that in group of six petitions, so far as survey no.588 (Special Civil Application no.13323 of 2006) is concerned, some portion of the land is with the society; whereas, so far as survey no.599 (Special Civil Application no.13451 of 2006) is concerned, the whole of the possession is with the society.

6. Let Mr Himanshu M. Padhya, learned advocate file an affidavit indicating that the petitioners are cultivating the land in their possession.

7. In the prima facie opinion of this Court, though it has been alleged that procedure has not been followed; however, non-observance of such a procedure is not attributed to the petitioners.

8. Mr J. K. Shah, learned Assistant Government Pleader to take instructions.

9. Let the matters appear on 26.9.2022 on top of the board.

RAVI P. PATEL

(SANGEETA K. VISHEN,J)