

ITEM NO.23

COURT NO.5

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).17876-
17877/2012

(From the judgement and order dated 13/03/2012 in LPA No.2573/2010
in SCA No.13429/2010 dated 11/04/2012 in MCA No.983/2012 in LPA
No.2573/2010 of The HIGH COURT OF GUJARAT AT AHMEDABAD)

SADHU BAJARANGDAS NARBHERAMBHAI

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned
Judgment, exemption from filing O.T. and prayer for interim relief
and office report)

WITH SLP(C) NO. 17926-17927 of 2012

(With appln(s) for exemption from filing c/c of the impugned
Judgment, exemption from filing O.T. and prayer for interim relief
and office report)

Date: 05/07/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s)
in SLP 17876-77/12

Mr. K.V.Viswanathan, Sr. Adv.
Mr. D.N. Ray, Adv.
Mr. Tattvam K. Patel, Adv.
Mr. Lokesh K. Choudhary, Adv.
Mrs. Sumita Ray, AOR

For Petitioner(s)
in SLP 17926-27/12

Mr. D.N. Ray, Adv.
Mr. Tattvam K. Patel, Adv.
Mr. Lokesh K. Choudhary, Adv.
Mrs. Sumita Ray, AOR

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

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One of the questions which would require
consideration in these petitions is whether the grant made
to the petitioners could have been cancelled after a gap of
almost 33 years without giving them action oriented notice
and opportunity of hearing.

The Division Bench of the High Court negated this
ground of challenge by making the following observations:

"With regard to the contention about non-serving of the notice issued to the appellants of Letters Patent Appeal No. 2572 of 2011 is concerned, it is clear from the record that the Deputy Collector had perused the record which was produced by the Talati-cum-mantri of the village and who deposed that the appellant was not residing in the village and he was not aware about the address of the appellant. It has also come on record that the notice issued by the Deputy Collector was affixed on the disputed land and a panchnama was prepared by the Talati. In view of this, the contention is without any basis and, therefore, the same is rejected."

We are, prima facie, of the view that the High Court is not right in holding that the action taken by the Deputy Collector did not suffer from the vice of violation of rule of audi alteram partem.

Issue notice to the respondents to show cause as to why leave may not be granted, the impugned judgment and the order passed by the learned Single Judge may not be set aside and the order dated 29.11.2003 passed by the Deputy Collector revoking the grant may not be quashed, returnable in ten weeks. Dasti, in addition, is permitted.

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Issue notice on the petitioners' prayer for interim relief, returnable in ten weeks. Dasti, in addition, is permitted.

In the meanwhile, status quo regarding possession of the land in dispute, as it is obtaining today, shall be maintained by both the parties. This would necessarily mean that neither party shall change the present character of the property nor alienate the same to any other person.

It shall be the petitioner(s) duty to serve the respondents before the next date of hearing failing which the interim order passed today shall stand automatically vacated.

A copy of this order be served upon the respondents along with the notice.

(Parveen Kr.Chawla)
Court Master

(Phoolan Wati Arora)
Court Master