

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 9442-9443 OF 2010
CHILODA(D) GRAM PANCHAYAT TH. SARPANCH ...APPELLANT(S)
VERSUS

STATE OF GUJARAT ...RESPONDENT(S)

O R D E R

1. Heard Mr. Sanjeev Kumar Saroha, learned counsel for the appellant as well as Ms. Enatoli Sema, learned counsel for the respondent-State.

2. These appeals have been preferred on behalf of the appellant-Panchayat through Sarpanch to claim the right to retain the rental realized from the encroachers over various village site open plots transferred to the appellant-Panchayat by virtue of Resolution dated 17.09.1966 of the Government of Gujarat. It may be relevant to note at this stage only that the said Resolution was pursuant to a Report made by the Democratic Decentralizing Committee appointed under the Government Resolution dated 15.07.1960. Inter alia, the said resolution provides in paragraph 2 that it was not possible to transfer village site open plots to Panchayat for certain reasons noted in the said paragraph in spite of recommendation by the Democratic Decentralizing Committee. However, it was found possible legally to

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transfer to village panchayats site open plots for disposal
â- Sas an agent of the Governmentâ- \235. Hence it was resolved â- Sto
involve the panchayats in administration and disposal of
village site lands and thus to be helpful in their
development activities.....â- \235 on the following
conditions:-

(i) Within a period of two months the collector shall determine and reserve plots for schools, secretary house, Panchayat office and like public purposes in sufficient number. Rest of the plots shall be transferred to the Panchayats for disposal in planned manner. The plots situated in Nagar Panchayats which were earlier reserved by Government shall continue to be reserved. In addition within a period of two months the collector shall decide as to which plots shall be reserved for Government purposes. Thereafter collector shall transfer remaining plots to nagar Panchayats.

(ii)

(iii)

(iv)

(v) Plots shall be disposed off as and when the demand is received. In future if it is felt that a particular plot is needed by government, then it will be resumed. It will not be necessary to make any specific order in this respect, because plots are not transferred under provisions of any law but are transferred only for getting amount on behalf of government, when plots are so resumed the Panchayat shall not demand any compensation. However, if the Panchayat has made expenditure for developing plot, then it will have a right to put up the claim, such a price shall be determined by the Collector and it will be final.

(vi) â- |.....

(vii) First the sale price of such plots shall be credited in Government and thereafter disbursed to Panchayats for being put in Development fund and the amounts of such development fund shall be used for following activities.

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- (a) Making provision for village roads.
- (b) Wells overhead tanks water pump engines and

allied instruments, pipeline protected water supply sources and like plans for water.

(c) Street lights.

(d) Drainage.

(e) Public Latrines complying with norms of health and hygiene.

(f) Public parks and play grounds.

(g) Works and plans relatable to such other necessities of villagers.

The pending cases of disposal of open plots will be disposed off by Revenue Department and the amount realized will be credited in Government.

The amount realized because of such pending cases will not be given to Panchayats.

3. It may also be noted that some part of land was resumed without paying any compensation to the Gram Panchayat for some permissible purposes viz. Housing for the under privileged people, vide order of the District Collector, Gandhinagar dated 14.03.1973. No doubt the Panchayat got a mutation entry made in its favour on 06.01.1973 but that entry also described the concerned land as â- Svested in Chiloda Gram Panchayat for administration as per Government Resolution dated 17.09.1966 in capacity of â- Sagency of Government.â- \235 Subsequent Government Resolution of 3 rd

June, 1980 is virtually a reiteration of the fact that transfer was made by the Government to the Gram Panchayat only for administration of the lands by the Gram Panchayat as an agent. In paragraph 2

4 of the Resolution, it has been reiterated that â- Sthese lands are Government lands and do not vest in Panchayatsâ- \235. Para 2(7)

(A) and sub Para (a) of this very para reads as follows:

2(7)(A) The sale price of such plots shall firstly be credited in Government and thereafter be paid to every Nagar and Gram Panchayats to be credited in development fund that will be opened by Panchayats. The amounts of this development fund shall be utilized only for the development activities specified below.

(a) The income derived from sale of village site plots and cited in development funds shall on priority basis be applied to the programme for construction of houses for Panchayat Mantris. The amount of rent to be recovered accordingly to rules from houses so constructed shall also be credited in development fund, and its maintenance expenses shall be charged on development fund.

4. In the background of aforesaid materials, the litigation initiated by the appellant claiming right over the lands as well as rent realized from the encroachers of such land did not succeed at any fora. By the judgment dated 07.12.2006, the learned Single Judge of the Gujarat High Court disposed of the writ petition filed by the appellant bearing Special Civil Application No. 5476 of 1996 along with Civil Application No. 6554 of 1998 by directing the State Government to constitute a Committee comprising of Secretary Revenue Department, Secretary Panchayat Department, District Development Officer of Gandhi Nagar District and Sarpanch of the Panchayat for deciding the dispute for entitlement and utilization of the amount deposited or paid by the occupants

5 of the land as per the earlier directions of the Court. The appellant came against that order to this Court through the Special Leave Petition (Civil) No. 6018 of 2007 but the same was dismissed as withdrawn on 28.11.2008.

5. The committee described as High Power Committee in

its meeting held on 28.02.2007 discussed the relevant issue in detail and decided against the claim of the appellant. The committee took note of relevant Resolutions of the Government as well as Section 269 of the Gram Panchayat Act 1993 and held that since the lands were owned by Government and never vested in Gram Panchayat, only on account of transfer for administration on agency basis, the Gram Panchayat could not claim the lands to be its own nor it was entitled to appropriate the amount realized as rent. The Committee did not approve the action of the Gram Panchayats in venturing to collect rent without the permission of the Government when the land did not belong to Gram Panchayat. The Committee was of the view that if the Gram Panchayat is permitted to recover rent unauthorisedly it would result in setting at naught the provisions of Section 105 of the Act and will result in encouraging encroachers every where.

6. The challenge to the decision of the High Court Committee has failed before the Single Judge as well as before the Division Bench vide the impugned judgment and order.

7. Having heard learned counsel for the parties and given our anxious consideration to the provisions of the

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Gram Panchayat Act particularly Section 269 as well as to the Resolutions dated 17.09.1966 and 03.06.1980, we are in agreement with the view taken by the Authorities and the High Court that the lands were placed under the administration of the Panchayat only as an agent of the Government and that also on various terms and conditions. The ownership of the land continued with the Government and, therefore, we find no error in the impugned judgment. The civil appeals are, therefore, found to be without merit and are dismissed accordingly.

8. In the facts and circumstances of the case, there shall be no order as to costs.

â- |.....J.

[SHIVA KIRTI SINGH]

NEW DELHI â- |.....J.

1 st

SEPTEMBER, 2016 [R. BANUMATHI]

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REVISED

ITEM NO.109

COURT NO.12

SECTION IX

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

RECORD OF PROCEEDINGS

Civil Appeal No(s). 9442-9443/2010

CHILODA(D) GRAM PANCHAYAT TH. SARPANCH

Appellant(s)

VERSUS

STATE OF GUJARAT

Respondent(s)

Date : 01/09/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. Sanjeev Kr.Saroha,Adv.

Mr. Dinesh S.Badiar,Adv.

Mr. Rameshwar Prasad Goyal,Adv.

For Respondent(s) Ms. Enatoli Sema,Adv.

Ms. Hemantika Wahi,Adv.

Ms. Aagam Kaur,Adv.

UPON hearing the counsel the Court made the following

O R D E R

Heard Mr. Sanjeev Kumar Saroha, learned counsel

for the appellant as well as Ms. Enatoli Sema, learned counsel for the respondent-State.

The appeals are dismissed in terms of the

signed order.

(Madhu Bala)

(Madhu Narula)

Court Master

Court Master

(Corrected Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

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VERSUS

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...RESPONDENT(S)

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Gram Panchayat Act particularly Section 269 as well as to the Resolutions dated 17.09.1966 and 03.06.1980, we are in agreement with the view taken by the Authorities and the High Court that the lands were placed under the administration of the Panchayat only as an agent of the Government and that also on various terms and conditions. The ownership of the land continued with the Government and, therefore, we find no error in the impugned judgment. The civil appeals are, therefore, found to be without merit and are dismissed accordingly.

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[SHIVA KIRTI SINGH]

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SEPTEMBER, 2016 [R. BANUMATHI]

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Court Master Court Master

(Signed order is placed on the file)