

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 4765 OF 2009**

DEVDATKUMAR GOVINDBHAI PATEL & ORS ..APPELLANT(S)

VERSUS

THE STATE OF GUJARAT & ORS. ..RESPONDENT(S)

ORDER

(1) This appeal is directed against the final judgment and order dated 08.10.2008 passed by the Division Bench of the High Court of Gujarat at Ahmedabad in Letters Patent Appeal No. 2158 of 2007 whereby the High Court dismissed the appeal filed by the appellants herein and confirmed the judgment dated 05.10.2007 passed by the learned Single Judge of the High Court.

(2) The appellants herein are the legal heirs and

successors-in-title of one Govindbhai Nathubhai Patel who owned certain pieces of land at Village Simalthu, Taluka-Olpad, Surat, Gujarat. Pursuant to the amendment of the Gujarat Agricultural Lands Ceiling Act, 1960 (for short, "the Act") by the Gujarat Agricultural Lands Ceiling (Amendment) Act, 1972, notice was issued and in response thereto, Govindbhai Nathubhai Patel declared his holding of 44 acres 23 guntas of land in aggregate.

(3) The Canal Officer issued a canal certificate on 10.01.1978 under Explanation II of Section 2(6) of the Act, declaring 41 acres 29 guntas of the said land as seasonally irrigated land and 2 acres 39 guntas thereof as perennially irrigated land. On 09.06.1977, Govindbhai Nathubhai Patel passed away leaving behind three minor children, the appellants herein. During the proceedings before the Mamlatdar & ALT, Mangrol, Lalitaben, the guardian-mother of the appellants objected to the canal certificate. Accordingly, the Mamlatdar & ALT issued notice to the Canal Officer for cross-examination. However, during the

pendency of the said proceedings, on 15.02.1988, Lalitaben accepted the canal certificate and further stated on oath that she did not want any cross-examination of the canal officer in this regard. On the basis of the canal certificate, the total holding of the said Govindbhai Nathubhai Patel was computed to be equivalent to 92 acres 5 guntas of dry crop land.

(4) According to Lalitaben, her two sons were minors at the relevant point of time and became major only on 01.04.1976. It was argued by her that, as such, Govindbhai Nathubhai Patel was entitled to retain lands equivalent to three ceiling units. Since the total holding of Govindbhai Nathubhai Patel was less than the three ceiling units there was no surplus land within the meaning of the Act. The Mamlatdar & ALT agreed with her submissions and withdrew the notice issued earlier under sub-section (2) of Section 20 of the Act vide his order dated 29.02.1988.

(5) The said order of the Mamlatdar & ALT was taken in review by the Deputy Collector (Land Reforms) Surat. After

giving notice as also an opportunity for hearing to Lalitaben, the Deputy Collector by his order dated 09.08.1988 reversed the order of the Mamlatdar & ALT insofar as the entitlement of Govindbhai Nathubhai Patel was concerned. Feeling aggrieved, Lalitaben preferred Revision Application No. 299 of 1988 before the Gujarat Revenue Tribunal. The Tribunal by its judgment and order dated 31.12.1996 rejected the said revision application. This order of the Tribunal was challenged by the appellants herein (legal representatives of Lalitaben) before the Single Judge of the High Court of Gujarat. The learned Single Judge dismissed the petition, holding that the Deputy Collector's order was just and proper. As noticed above, the Division Bench of the High Court has confirmed the judgment of the learned Single Judge.

(6) We have heard Mr. Shamik Sanjanwala, learned counsel appearing for the appellants and Ms. Aastha Mehta, learned counsel appearing for the respondents.

(7) The only contention raised by Mr. Shamik Sanjanwala is

that while issuing the canal certificate dated 10.01.1978 under Explanation II to Section 2(6) of the Act, the concerned authority did not follow the principles of natural justice and the predecessors of the appellants were not heard by the concerned Canal Officer at the time when the canal certificate was issued.

(8) On the other hand, Ms. Aastha Mehta, learned counsel appearing for the respondents, has submitted that the canal certificate had not been disputed at any point of time before the authorities by Lalitaben, the guardian-mother of the appellants. Learned counsel has also submitted that Lalitaben, on the contrary, had represented and deposed before the Mamlatdar & ALT that the canal certificate was issued after the physical verification of the land and that she had admitted the said certificate accordingly. Learned counsel has further submitted that Lalitaben had expressly chosen against cross-examination of the Canal Officer who issued the canal certificate. In view of above, it is submitted that no interference is warranted in this appeal

by this Court.

(9) We have carefully considered the submissions made by the learned counsel for the parties at the Bar and perused the materials placed on record. It is clear from the materials on record that there was no challenge to the canal certificate dated 10.01.1978. In fact, Lalitaben, the guardian-mother of the appellants herein, who contested the matter had deposed before the Mamlatdar & ALT on 15.02.1988 that the canal certificate was issued after physical verification of the lands in question. Later, when the Mamlatdar & ALT issued notice to the Canal Officer for his cross-examination, Lalitaben agreed on oath that she accepts the canal certificate and did not wish to cross-examine the Canal Officer. We are of the view that the Mamlatdar & ALT correctly relied upon the canal certificate dated 10.01.1978 for computing the total land holding in the form of dry crop land. The Deputy Collector, Surat, also proceeded on the basis of the computation undertaken by Mamlatdar & ALT. The High Court has again considered this

aspect in detail and has dismissed the writ petition and the appeal.

(10) In view of above, we do not find any merit in this appeal. The civil appeal is accordingly dismissed with no order as to costs. Pending applications, if any, shall also stand disposed of.

.....J.
(S. ABDUL

NAZEER)

.....J.
(B.R.

GAVAI)

**New Delhi;
October 07, 2020**

ITEM NO.104 Court 7 (Video Conferencing)

SECTION III

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

Civil Appeal No(s). 4765/2009

DEVDATKUMAR GOVINDBHAI PATEL & ORS.

Appellant(s)

VERSUS

THE STATE OF GUJARAT & ORS.

Respondent(s)

IA No. 3/2008 - APP FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 07-10-2020 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE B.R. GAVAI

For Appellant(s) Mr. Shamik Sanjanwala, Adv.
Ms. Sumita Hazarika, AOR

For Respondent(s) Ms. Aastha Mehta, A dv.
Mr. Aniruddha P. Mayee, AOR

UPON hearing the counsel the Court made the following
O R D E R

The civil appeal is dismissed in terms of the signed order.

Pending application(s), if any, stands disposed of
accordingly.

(ASHWANI KUMAR)
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)
COURT MASTER (NSH)

(Signed order is placed on the file)