

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL No. 735 OF 2021**  
**(Arising out of SLP(Civil) No. 12550 of 2017)**

**PATEL GOVINDBHAI MOHANBHAI**

**....APPELLANT(S)**

**VERSUS**

**VAGHRI GHELA JALU SINCE  
DECEASED THROUGH LRS. & ORS.**

**....RESPONDENT(S)**

**ORDER**

Leave Granted.

2. This appeal is directed against the judgement and order dated 13.01.2017, as passed by the Division Bench of the High Court of Gujarat at Ahmedabad, in Letters Patent Appeal No. 200 of 2011, whereby the Division Bench disapproved the order dated 14.10.2010, as passed by a learned Single Judge of that Court in Special Civil Application No. 11861 of 2009 and remanded the matter for consideration afresh.

3. The dispute herein relates to a piece of land admeasuring 4.10 acres, comprising Survey No. 886 and situated at village Gungdipati, Taluka and District Patan, Gujarat<sup>1</sup>. The essence of the matter is that an attempted challenge by the contesting respondents of this appeal<sup>2</sup>, to the auction proceedings in relation to the land in question, was declined by the revenue authorities on the ground of

<sup>1</sup> Hereinafter referred to as 'the land in question'.

<sup>2</sup> The respondent Nos. 1.1. to 1.6 herein; also referred to as the writ petitioners.

delay, because the auction was held way back in the year 1980 whereas the issue was sought to be raised for the first time only in the year 2005. The learned Single Judge agreed with the orders so passed by the revenue authorities and declined to interfere in the writ jurisdiction while observing that there was no reason to entertain the challenge after more than 25 years and to disturb the settled position of the parties. However, the Division Bench was of the view that several contentions of law required due consideration and hence, remanded the matter for consideration afresh and on merits.

4. In this appeal, the basic question for consideration is as to whether the Division Bench of the High Court was right in setting aside the order passed by the Single Judge and in remanding the matter for its consideration on merits.

5. Shorn of unnecessary details, the relevant background aspects of the matter are as follows: The land in question was sold by its erstwhile owner to the father of the contesting respondents, after getting due permission and by a registered sale deed dated 13.10.1960. It appears that the father of the contesting respondents had availed a *tagavi* loan (financial assistance) from the Government for payment of the purchase price but was unable to pay an amount of Rs. 1733.82 due against this loan. For recovery of such dues, the land in question was eventually put to auction and the respondent No. 4, Patel Maganbhai Prabhudas, purchased the same in the public auction held on 21.01.1980. The auction was approved on 29.05.1980 and finally, the land in question came to be recorded in favour of the said auction purchaser Patel Maganbhai Prabhudas by way of mutation entry No. 2428 dated 16.11.1980.

6. The facts have come on record that another piece of adjacent land,

bearing survey No. 965, was also in the name of the father of the contesting respondents, which was sold by him to the very same person, Patel Maganbhai Prabhudas, by way of a registered sale deed dated 20.01.1984. It has also appeared on record that the father of the contesting respondents expired in the year 1986. Yet another noticeable fact is that a portion of the land in question was later on sold by the auction purchaser in favour of other persons, including the present appellant (who was respondent No. 4 before the High Court), by way of a registered sale deed dated 18.11.2003. During all this time, there was no challenge by anyone to the auction proceedings held in the year 1980.

7. In the year 2005, the contesting respondents attempted to challenge the aforesaid auction proceedings by filing an appeal before the Deputy Collector, Patan. The learned Deputy Collector dismissed this appeal by his order dated 27.07.2007. The contesting respondents attempted to maintain a revision application before the Gujarat Revenue Tribunal but the same was rejected for want of jurisdiction, by the Tribunal's order dated 18.07.2008. The contesting respondents made yet another attempt and carried the matter in revision to the State Government under Section 211 of the Gujrat Land Revenue Code, 1879. This attempt also failed as the Special Secretary (Appeals) rejected the revision application by his order dated 19.01.2009, essentially on the ground of delay. Having been unsuccessful in all their attempts before the revenue authorities, the contesting respondents (writ petitioners) approached the High Court in the said Special Civil Application No. 11861 of 2009.

8. It was submitted before the learned Single Judge in support of the said petition that the writ petitioners sought information relating to the auction in

question but the Mamlatdar, Patan stated on 07.08.2009 that the documents were not available. It was contended that the auction was in contravention of the provisions of Sections 32M and 32PP of the Gujarat Tenancy and Agricultural Lands Act, 1948<sup>3</sup>, particularly because the said provisions were amended by the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Ordinance, 1981<sup>4</sup> and thereunder, benefits were extended to the tenants to make good the due payment until the end of December, 1982. The gravamen of submissions had been that in view of said provisions and amendments, the land in question could not have been auctioned.

9. The learned Single Judge took note of the contentions of the rival parties and also the fact that the proceedings initiated against the father of the petitioners culminated in the auction dated 21.01.1980 that was confirmed on 29.05.1980 and thereby, the land in question came to be settled in favour of the auction purchaser Patel Maganbhai Prabhudas. The learned Single Judge noticed that during his lifetime, father of the writ petitioners did not challenge the auction proceedings and on the other hand, he sold another piece of adjacent land bearing Survey No. 965 to the same auction purchaser Patel Maganbhai Prabhudas by a registered sale deed dated 20.01.1984. It was also noticed that on 18.11.2003, a portion of the land in question was sold by the auction purchaser in favour of other persons, including the appellant.

10. After taking note of all the facts and circumstances of the case, the learned Single Judge observed that after 30 years, destruction of the old record was permissible under the rules and merely on account of non-availability of the

<sup>3</sup> Hereinafter also referred to as 'the Act of 1948'.

<sup>4</sup> Replaced by the Bombay Tenancy and Agriculture Lands (Gujarat Amendment) Act,1982.

record, the petition cannot be entertained. The learned Single Judge further observed that the predecessor-in-title of the writ petitioners chose not to challenge the order of the year 1980 until he expired in the year 1986; the writ petitioners were attempting to resurrect the concluded proceedings after about 21 years from the date of death of their predecessor-in-title; and that any interference in the matter would be disturbing the position of the person who had made investment under a bonafide belief after having purchased the land in government auction. Therefore, the Learned Single Judge proceeded to dismiss the petition while finding no ground to interfere with the orders passed by the revenue authorities.

11. In the appeal preferred by the writ petitioners (contesting respondents herein), the Division Bench of the High Court, however, took the view that the referred provisions of law and their operation had not been taken into consideration by the Single Judge and hence, considered it appropriate to remand the matter for consideration afresh and on merits.

12. Assailing the order so passed by the Division Bench, it is contended on behalf of the appellant that the impugned order of remand practically amounts to condoning the unconscionable and unexplained delay of about 25 years in challenging the public auction held in the year 1980. It is submitted that the predecessor of the writ petitioners never questioned the auction proceedings and on the contrary, he transferred another piece of adjacent land to the very same auction purchaser in the year 1984. It is argued that in the given status of record, the present appellant, who had purchased a part of the land in question on 18.11.2003 without their being any embargo over alienability, cannot be made to

suffer the challenge to the auction proceedings at such a belated stage. *Per contra*, it is contended on behalf of the contesting respondents that the proceedings of auction were wholly unauthorised because father of the contesting respondents had made the requisite payment and there were no arrears or dues against him. It is further submitted that even otherwise, the said proceedings of auction were entirely impermissible in view of the aforementioned amendments to Sections 32M and 32PP of the Act of 1948. It is contended that the relevant factual aspects and the provisions of law applicable to the case having not been examined by the learned Single Judge, the Division Bench has rightly remanded the matter for consideration afresh and no case for interference by this Court is made out.

13. Having given anxious consideration to the rival submissions and having examined the record, we find it difficult to accept the submissions on behalf of the contesting respondents or to endorse the remand order passed by the Division Bench of the High Court.

14. A great deal of arguments on behalf of contesting respondents is to the effect that they have a substantial case on merits and, therefore, the order passed by the Division Bench deserves not to be interfered with. However, staring hard on the face of these submissions are the facts that the auction in question took place way back in the year 1980 and the same was sought to be challenged, for the first time, by the contesting respondents only in the year 2005. Apart that the predecessor of the contesting respondents did not put any challenge to the said auction proceedings, he even transferred another piece of nearby land, by way of a registered sale deed dated 20.01.1984, to the same person who had purchased

the land in question in auction. Thereafter, the predecessor of the contesting respondents expired in the year 1986. The land in question continued with the auction purchaser; and in the year 2003, the appellant purchased a portion thereof along with the other persons (who were respondent Nos. 5 and 6 in the High Court). In the given status of record and settled position regarding the land in question, there was no justification to entertain a challenge to the auction proceedings after more than two decades.

15. Even when the right of a person to take recourse to appropriate remedy in relation to his legal grievance is not denied, such a recourse could only be in accordance with law and not at the sweet will of the suitor. Ergo, an action seeking relief by way of legal proceedings has to be taken up either within the limitation prescribed by law or, in case there is no prescribed period of limitation, within a reasonable time after the right to sue has accrued, beyond which, the settled status and position of the parties and their rights cannot be disturbed. Even in the extraordinary writ jurisdiction, where no limitation is prescribed as such, the factors related with delay and laches carry their own relevance and cannot be ignored.

16. In the present case, the learned Single Judge did not dismiss the writ petition on any irrelevant consideration but specifically pointed out that the title concerning the land in question remained settled with the auction purchaser for over two decades, without any demur from the predecessor-in-title and the contesting respondents. This long passage of time was coupled with the significant fact that four years after the auction in question, the predecessor-in-title of the contesting respondents alienated another piece of nearby land to the very

same auction purchaser by a registered sale deed. This fact clearly operates against any suggestion of want of knowledge on the part of the said predecessor-in-title and the contesting respondents about the status of the land in question. The predecessor-in-title and thereafter the contesting respondents allowed the position of record and title of the auction purchaser remaining intact for over two decades and thereafter, the present appellant purchased a part of the land in question in the year 2003. Obviously, the appellant was a bonafide purchaser and he could not have entertained any doubt over the title of the seller. That being the position, the belated attempt on the part of the contesting respondents to rack up the issue after more than two decades could not have been countenanced and hence, in the given set of facts and circumstances, the revenue authorities were justified in rejecting the belated challenge to the auction proceeding; and the learned Single Judge rightly declined to interfere.

17. The Division Bench was much swayed by the fact that various contentions of law were not dealt with. In our view, when the matter required no consideration because of inordinate delay and serious laches with third-party rights having been created in the interregnum, there was no question of examining the grounds of challenge on merits. Putting it differently, even if it be assumed that some arguable points were available with the contesting respondents, the other facts, and the conduct of their predecessor as also their own conduct, clearly operated as a bar over their right to relief. There was no justification for Division Bench of High Court to interfere in intra-court appeal.

18. For what has been discussed hereinabove, this appeal succeeds; the impugned order dated 13.01.2017 passed by the Division Bench of the High

Court is set aside and that of the learned Single Judge dated 14.10.2010 is restored.

No costs.

....., J.  
(SANJAY KISHAN KAUL)

....., J.  
(DINESH MAHESHWARI)

....., J.  
(HRISHIKESH ROY)

**New Delhi**  
**Dated: 17.02.2021**

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 (C) No(s). 12550/2017

(Arising out of impugned final judgment and order dated 13-01-2017 in LPA No. 200/2011 13-01-2017 in SCA No. 11861/2009 passed by the High Court Of Gujarat At Ahmedabad)

PATEL GOVINDBHAI MOHANBHAI

Petitioner(s)

VERSUS

VAGHRI GHELA JALU SINCE DECD THROUGH  
LRS. AND ORS.

Respondent(s)

(Appln(s). for permission to file addl. Documents/facts/  
annexures and exemption from filing O.T.)

Date :17-02-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE DINESH MAHESHWARI  
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s)

Mr. Harin P Raval, Sr. Adv.  
Mr. Kabir Hathi, Adv.  
Mr. Jesal Wahi, AOR  
Mr. Nishith Gandhi, Adv.

For Respondent(s)

Mr. Nachiketa Joshi, Adv.  
Mr. Chaitanya Sudhakar Joshi, AOR  
Mr. Nachiketa Joshi, Adv.  
Ms. Sucheta Joshi, Adv.  
Ms. Himadri Haksar, Adv.

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

Leave granted.

The appeal succeeds; the impugned order dated 13.012017 passed by the Division Bench of the High Court is set aside and that of the learned Single

**Judge dated 14.10.2010 is restored.**

**Pending applications stand disposed of.**

**(CHARANJEET KAUR)  
ASTT. REGISTRAR-cum-PS**

**(POONAM VAID)  
COURT MASTER (NSH)**

**[ Signed order is placed on the file ]**