

KALIDAS UMEDRAM AND ORS.

A

v.

STATE OF GUJARAT AND ANR.

DECEMBER 13, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

B

Land Laws :

Bombay Land Revenue Code : Section 65 proviso—Grant of land for agricultural purposes—Land not to be used for other purposes without written permission—Allottee sold part of land for building purposes—Application filed for permission to use land for non-agricultural purpose—However, no order on this application passed—Entire allotment of land cancelled—Held : deemed permission meant only for agricultural or non-agricultural purpose—Not for industrial or building purposes—Policy behind grant was to augment agricultural production—Hence, Government was justified in revoking grant in respect of entire land.

C

D

The appellants were granted land for agricultural purposes. One of the conditions prescribed in the grant was that they would not use the land for any other purpose except with written permission of the authority. Subsequently, they entered into an agreement to sell a part of the land to different persons. On that basis, the grant was cancelled. When the appellants had filed the proceedings before the authorities challenging the validity of the action taken, the District Collector found as a fact that though the appellant had filed an application for permission to use the land for non-agricultural purpose, no order was passed and he had been selling the land for building purpose in contravention of the grant made in his favour. Accordingly, he upheld the order cancelling the entire allotment of land. The appeal filed by the appellants was dismissed by the State Government and in revision under Article 227 of the Constitution the High Court dismissed it summarily.

E

F

G

On behalf of the appellants it was contended that under proviso to Section 65 of the Bombay Land Revenue Code if the permission was not granted within three months from the date of the receipt of the application, permission must be deemed to have been granted; and that in any case cancellation should have been only to the extent of contravention of the

H

A grant and not the entire land.

Dismissing the appeal, this Court

B HELD : 1.1. It is true that the proviso to Section 65 of the Bombay Land Revenue Code envisages deemed permission if the Collector does not grant permission within three months from the date of receipt of the application excluding the time as specified therein. But the condition is that user must be always for an agricultural or non-agricultural purpose. Land should be used for raising commercial crops but not for industrial purposes or for building purposes. Deemed permission would not be a free licence to use land for any other purpose defeating the object of the grant.

C [663-F-G]

D 1.2. The public policy behind the grant is to augment agricultural production so as to enable the tiller of the soil, economic justice assured in the Preamble to the Constitution of India and Articles 38 and 46 to minimise inequalities in income and status. The State distributes under Article 39(b), its material resources to subserve the said purpose. Having obtained the grant or permission, appellants cannot convert the land into non-agricultural use as well as for building houses. The sale of Government Land for nominal amount was for the avowed constitutional purposes. After the conversion, sale of the lands for building purpose would be a windfall. Obviously, the public purpose of the grant and the constitutional goals would be defeated by this method of circumvention. The Government, therefore, is justified in cancelling the grant. Under these circumstances the Government is entitled to revoke the grant in respect of the entire extent of land. [663-H, 664-A-B]

E

F CIVIL APPELLATE JURISDICTION : Civil Appeal No. 171 of 1979.

From the Judgment and Order dated 12.12.77 of the Gujarat High Court in S.C.A. No. 1770 of 1977.

G A.S. Bhasme for the Appellants.

C. Badri Nath Babu and Anip Sachthey for the Respondents.

The following Order of the Court was delivered :

H This appeal by special leave arises against the order of the High

Court summarily dismissing the writ petition filed under Article 227 of the Constitution. Admittedly appellants were granted 2 acres 9 guntas of land on March 05, 1976 for agricultural purposes. One of the condition prescribed in the grant was that they would not use the land for any other purpose except with written permission of the authority. Subsequently, they entered into an agreement to sell the land admeasuring 3000 sq. yd. to different person. On that basis, the grant was cancelled, when the appellants had filed the proceedings before the authorities challenging the validity of the action taken, the District Collector found as a fact that though the appellant had filed an application for permission to use the land for non-agricultural purpose, no order was passed and he had been selling the land for building purpose in contravention of the grant made in his favour. Accordingly, he upheld the order cancelling the allotment of 2 acres 9 guntas of land in Survey No. 152 situated in village Rakhyal City Taluk Ahmedabad. Appeal was dismissed by the State Government and in revision under Article 227, as stated earlier, the High Court dismissed it summarily.

Shri Ganpule, learned senior counsel appearing for the appellant, contended that under proviso to Section 65 of the Bombay Land Revenue Code, if the permission is not granted within three months from the date of the receipt of the application or in the manner contemplated thereunder, permission must be deemed to have been granted. Therefore, the cancellation of the grant is bad in law. He also contended that cancellation should have been only to the extent of the contravention of the grant and not of the entire extent of the land.

We find no force in any of the contentions. It is true that the proviso envisages permission if the Collector does not grant permission within three months from the date of the receipt of the application excluding the time as specified taken thereunder. But the condition is that user must be always for an agricultural or non-agricultural, purpose. In other words, land should be used for raising commercial crops but not for industrial purposes or for building purposes. Deemed permission would not be a free licence to use the land for any other purpose defeating the object of the grant. The public policy behind the grant is to augment agricultural production so as to enable the tiller of the soil economic empowerment and social and economic justice assured in the Preamble to the Constitution of India and Articles 38 and 46 to minimise inequalities in income and status. The State

- A distributes under Article 39(b), its material resources to subserve the said purpose. Having obtained the grant or permission, appellants cannot convert the land into non-agricultural use as well as for building houses, The sale of Government land for nominal amount was for the avowed constitutional purposes. After the conversion, sale of the lands for building purpose would be a windfall. Obviously, the public purpose of the grant and the constitutional goals would be defeated by this method of circumvention.
- B The Government therefore, is justified in cancelling the grant.

The next question is to what extent the grant is to be cancelled. Under the above circumstances, the Government is entitled to revoke the grant in respect of the entire extent of land.

C

The appeal is accordingly dismissed but without costs.

V.S.S.

Appeal dismissed.