

**(2010) 08 GUJ CK 0076**

**Gujarat High Court**

**Case No:** Special Civil Application No"s. 13674 of 2009 and 2892 and 2894 of 2010

Bhavnnaben Rameshbhai Makani  
and Another

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

---

**Date of Decision:** Aug. 30, 2010

**Acts Referred:**

- Bombay Land Revenue Rules, 1921 - Rule 108(6)
- Constitution of India, 1950 - Article 226, 227

**Hon'ble Judges:** K. S. Jhaveri, J

**Bench:** Single Bench

**Advocate:** P.J. Kanabar, for the Appellant; P.K. Jani, Government Pleader and Nikunt Raval, AGP for Respondent 1, for the Respondent

---

**Judgement**

K.S. Jhaveri, J.

Rule. Mr. Raval, learned Assistant Government Pleader waives service of notice of Rule on behalf of the respondents.

2. With the consent of the learned advocates appearing on behalf of the respective parties and in the facts and circumstances of the case, the present petitions are taken up for final hearing today.

3. By way of these petitions under Articles 226 and 227 of the Constitution of India, the petitioners have prayed for an appropriate writ, order and/or direction, quashing and setting aside the impugned order dated 25/11/2008 passed by respondent No. 2 - District Collector, Amreli in JMN/REVISION/108(6), CASE No. 180 of 2005 as well as order passed by Revisional Authority i.e. the Secretary (Appeals), Revenue Department, State of Gujarat dated 15th/19th September, 2009 in Revision Application No. MVV/HKP/AML/10/2008 confirming the order passed by the Collector, Amreli dated 25/11/2008.

4. As for the reasons stated hereinbelow this Court is quashing and setting aside the impugned orders and remanding the matter to the Collector, Amreli, this Court is not further elaborating the facts. Suffice it to say that the proceedings were initiated by the Collector, Amreli under Rule 108(6) of the Bombay Land Revenue Rules and the petitioners were called upon to show cause as to why the mutation entry should not be quashed and set aside. In the said proceedings, the Collector, Amreli quashed and set aside the mutation entry and also quashed and set aside the transfer in favour of the petitioners.

5. Having heard learned advocates appearing on behalf of the respective parties and considering the fact that there was no show cause notice issued upon the petitioners to show cause as to why transfer/sale in favour of the petitioners should not be quashed and set aside, it appears to the Court that the Collector, Amreli was not justified in quashing and setting aside the transfer/sale in favour of the petitioners and, therefore, the order passed by the Collector, Amreli whereby quashed and set aside the mutation entry and quashed the transfer/sale in favour of the petitioners, cannot be sustained and the same deserves to be quashed and set aside. Consequently the order passed by the Revisional Authority also deserves to be quashed and set aside and the matter is required to be remanded to the Collector, Amreli for passing appropriate order, after giving an opportunity to the petitioners.

As agreed by Mr. Kanabar, learned advocate appearing on behalf of the petitioners that the order passed by the Collector, Amreli dated 25/11/2008 to be treated as show cause notice and the petitioners shall respond to the same and the said Notice be treated as calling upon the petitioners to show cause as to why transaction in favour of the petitioners shall not be quashed, without further entering into the merits of the case and without expressing anything on merits with respect to transaction in favour of the petitioners, the impugned order dated 25/11/2008 passed by respondent No. 2 - District Collector, Amreli in JMN/REVISION/108(6), CASE No. 180 of 2005 as well as order passed by Revisional Authority i.e. the Secretary (Appeals), Revenue Department, State of Gujarat dated 15th/19th September, 2009 in Revision Application No. MVV/HKP/AML/10/2008 are hereby quashed and set aside solely on the ground that the order passed by the Collector, Amreli is in breach of principles of natural justice. The Collector, Amreli is directed to decide and dispose of JMN/REVISION/108(6), CASE No. 180 of 2005 in accordance with law and on merits, after giving an opportunity to the petitioners. As stated hereinabove, the order dated 25/11/2008 passed by the Collector, Amreli, which is now set aside that itself be treated as show cause notice to the petitioners calling them to show cause as to why transfer/sale in favour of the petitioners should not be quashed. It will be open for the petitioners to reply to the same within a period of six weeks from today. Thereafter, the Collector, Amreli to pass an appropriate order in accordance with law and on merits. Rule is made absolute to the aforesaid extent. No costs.