Supreme Court of India
State Of Gujarat vs Kumar Shri Ranjit Singhji Bhavan ... on 13 October, 1970
Equivalent citations: AIR 1971 SC 1645, (1971) 3 SCC 891, 1971 III UJ 15 SC
Author: J Shah
Bench: A G Shah, K Hegde
JUDGMENT J.C. Shah, J.

1. Kumar Shri Ranjit Singhji Bhavan Singhji hereinafter called 'the respondent' was the holder of a Jagir of four villages-Saloz, Vaurkhan, Kambalad and Thambla in Taluka, Jambegam, District Baroda These villages were granted by a Sanad dated August 18, 1885, to the father of the respondent by the then Ruler of Chhota Udaipur. By the Bombay Merged Territories and Areas (Jagirs Abolition) Act 39 of 1954 with effect from August 1, 1954, the Jagir of the respondent stood abolished. Under the provisions of the Act the respondent became entitled to compensation provided under the Act. The respondent preferred a claim for compensation under the Act. The Jagir Abolition Officer held that no compensation was payable in respect of leak trees, because in the Chhota Udaipur State teak trees were reserved trees, and no convincing evidence had been produced by the Jagirdar that he enjoyed any right to reserved trees. The Gujarat Revenue Tribunal confirmed the order of the Jagir Abolition Officer The Tribunal held that the Sanad granted to the respondent's father related merely to the right of usufruct of the villages and the grantee was expressly prohibited from mortgaging, selling or disposing of the same in any manner. That prohibition in the view of the Tribunal applied to teak trees as well.

2. The respondent moved a petition in the High Court of Gujarat for a writ quashing the order of the Tribunal. The High Court held that there was evidence on the record that the State of Chhota Udaipur had treated and dealt with the forest as absolute property of the grantee, and it was not proved that the teak trees were reserved trees. The High Court accordingly held that the respondent was entitled to receive compensation in respect of the teak trees With special leave, the State of Gujarat has appealed to this Court.

3. The High Court found that the respondent was an absolute grantee of the villages under the Sanad dated August 18, 1885, and the restriction on the power of alienation did not limit the title of the respondent in the lands and in things attached thereto The respondent was, therefore, the owner of the teak trees. There was also no evidence before the High Court that the teak trees were declared reserved forests either in the territory of the former State of Chhota Udaipur or specifically within the four Jagir villages.

4. Counsel for the State in support of the appeal however relied upon the judgment of this Court in Shri U.R. Mavinkurve v. Thakor Madhavsingh Gambhirsingh and Ors. . In that case the holder of a Jagir in the State of Gujarat was on the application of the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (39 of 1954) held not entitled to forests in the Jagir and compensation was denied to him. But the principle of the case has no application to this case. In Mavinkurve's case 1965 (3) S.C.R. 177 the State of Bombay Which had at the relevant time jurisdiction issued a notification Under Section 34(a) of the Indian Forest Act, declaring all uncultivated lands in the villages of the Jagir to be forests for the purposes of Ch. V. of that Act. On that account the forests

were deemed protected forests and the Jagirdar had no right to cut and remove trees from, the forest lands as owner and that under the Bombay Land Revenue Code 1879 the rights of occupancy did not carry the right to cut and remove trees from forest lands.

5. In the present case there in a evidence of any such notification issued that teak trees formed part of the forest. The Jagirdar had absolute rights to the land and therefore to what grew on the land. Under Section 11 of the Act the Jagirdar was entitled to compensation for trees or structures on the lands. The right of the Jagirdar to the teak trees not being extinguished or restricted by a notification issued under the Indian Forest Act, the High Court was, in our judgment, right in holding that he was entitled to compensation for the teak trees.

The appeal fails and is dismissed with costs.