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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8630 OF 2014

Ramnabhai Somlabhai Patel

...Petitioner

V/s.

Mohanbhai Keshavbhai Patel,
(Deceased) through LRs & Ors

...Respondents

Mr. Girish R. Agrawal for the Petitioner.
Mr. Zarir B. Mogal for Respondent Nos. 1 to 3.
Mr. Shrishailya S. Deshmukh for Respondent No.4.

CORAM : R.D. DHANUKA, J.
DATE : 13TH FEBRUARY, 2018.

P.C. :-

1. By consent of the parties following order is passed.
2. Impugned order dated 7th May, 2014 passed by the Administrator, Union Territory, Daman and Diu and Dadra and Nagar Haveli is set aside. The matter is remanded to the Resident Deputy Collector for making enquiry in the matter and to pass order after hearing both the parties and after giving an opportunity of producing the relevant material in support of the rival contention and submit report on the following terms:
 - (a) Which party is in possession of how much portion of land

bearing Survey No. 193/1 reflected in Exhibit-A to the petition?

(b) Who is in possession of which portion of the said land since when and the proof of such possession produced by such party, if any,?

(c) Whether any construction is allegedly carried out by the petitioner on any portion of the land forming part of Survey No. 193/1?

3. The learned Deputy Collector shall also submit a report on the issue as to which portion of the land was allotted to the petitioner forming part of Survey No. 193/1 vide a letter of allotment dated 23rd August, 1997 or any other documents.

4. The learned Deputy Collector shall prepare a map showing the actual area in physical possession of the petitioner and the contesting respondents forming part of Survey No.193/1. The learned Deputy Collector shall inform both the parties by giving one weeks advance notice of his proposed visit to the site for the purpose of taking inspection of the land bearing Survey No.193/1.

5. Both the parties are directed to remain present at the time of taking inspection of the land in question by the Deputy Collector. The learned Deputy Collector is also at liberty to take assistance of a photographer with him. The fees and expenses of the learned surveyor as well as of the photographer, if any, shall be equally borne

by both the parties at first instance.

6. Both the parties are directed to co-operate with each other and with the learned Deputy Collector for passing an order expeditiously. The learned Deputy Collector shall make an endeavour to pass the order after complying with the directions issued aforesaid within three months from the date of communication of this order. Both the parties are permitted to produce all the relevant documents in support of their respective plea to show the allotment of any particular portion of the land bearing Survey No. 193/1 and also to demonstrate their respective alleged possession in respect of the said land before the Deputy Collector.

7. The learned Deputy Collector shall communicate the order that may be passed by him to both the parties. The ad-interim protection passed by the Division Bench of this Court on 18th November, 2014 to continue till the fresh order is passed by the Deputy Collector and for a period of four weeks thereof.

8. If any, adverse order is passed by the Deputy Collector against any of the contesting parties to this petition, he can exercise his remedy available in law. Parties to act on the authenticated copy of this order. Writ petition is disposed of in the aforesaid terms.

(R.D. DHANUKA, J.)