NEUTRAL CITATION
2026:GUJHC:59951

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 1163 of 2008

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE DEVAN M. DESAI

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Approved for Reporting	Yes	No

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KANAIYALAL DHANSUKHLAL SOPARI-WALA
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR MG NAGARKAR(496) for the Petitioner(s) No. 1
MR NIKUNJ KANARA, AGP for the Respondent(s) No. 1
RULE SERVED for the Respondent(s) No. 2

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CORAM:**HONOURABLE MR. JUSTICE DEVAN M. DESAI**

Date : 23/09/2026
JUDGMENT

1. The present petition is filed under Article 226 of the Constitution of India, 1950 by the petitioner praying for the following reliefs:

> *"(A) This Honourable Court may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction quashing and setting aside the order dated 30-9-2006 and 29-11-2006 passed by the Collector, Surat at Annexure 'J' amd 'L' respectively and the order dated 24-8-2007/1-9-2007 passed by the Principle Secretary to the Government of Gujarat, revenue Department (appeal), Ahmedabad in Revision Application No. R.D.A./BKHP/ST/11/2006 at Annexure 'M' hereto; and consequently restore the order dated 21-4-1988 passed by the Deputy Collector, Surat at Annexure 'A' hereto or in the alternative direct the Respondents to reassess the amount of premium for conversion of land into new tenure land and for*

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the use of non agricultural purpose as per the prevailing rates as on the date of first application i.e. 25-4-85 or 2nd Application i.e. 26-11-87 made by the predecessor in title of the petitioner.
(B) This Honourable Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents to refund an amount of Rs. 15,00,000/- (Rupees Fifteen lacs only) paid by the petitioner pursuant to the order of the Collector at Annexure 'J' hereto, with the interest thereon at the rate of 12% from the date of payment till the date of refund, pursuant to the order of the Collector at Annexure 'J' and 'L' hereto, to the petitioner forthwith;
(C) Pending admission, hearing and final disposal of this petition, this Honourable Court may be pleased to direct the respondents herein ton desist from taking any coercive measures against the petitioner pursuant the orders at Annexure 'J', 'L' and 'M' hereto; and be further pleased to stay execution, operation and implementation of the said orders at Annexure 'J', 'L' and 'M' hereto;
(D) Such other and further relief or reliefs may be deemed just and expedient in view of the facts and circumstances of the case may kindly be granted;
(E) Costs of this petition may kindly be awarded to the petitioner."

2. Heard learned advocate Mr. M.G. Nagarkar for the petitioner and learned AGP Mr. Nikunj Kanara for the respondent – State. Though served, none appeared for respondent No. 2.

3. Brief facts of the case are as under:

3.1 A land bearing Block No. 349 situated in Village - Kadodara, Taluka – Kamrej, District – Surat was owned and possessed by one Kevalbhai Sukhabhai Kantharia. Petitioner agreed to purchase the said land from Kevalbhai Sukhabhai

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Kantharia. As the land was a new tenure land, on 25.04.1985, Kevalbhai Sukhabhai Kantharia applied before learned Deputy Collector, Surat for requisite permission for sale. The said application came to be rejected. The erstwhile owner made another application. The learned Deputy Collector, Surat, asked the holder of the land to deposit an amount of Rs.32,333/- as premium fixed. Vide order dated 21.04.1988, the learned Deputy Collector, Surat, granted permission to sell the said land for non-agricultural purpose for construction of transport godown. The land, thereafter, was sold by Kevalbhai Sukhabhai Kantharia to the petitioner by way of a registered sale deed dated 09.05.1995. After 5 years of time of the order passed by the learned Deputy Collector, Surat, the learned Collector, Surat took the said order in s*uo motu* Revision proceedings on the ground that learned Deputy Collector had no jurisdiction to grant such permission under Section 43 of the Tenancy Act. The learned Collector, Surat, set aside the order dated 21.04.1988 on 29.06.1996 against which, a Revision Application was preferred before the learned SSRD, who remanded the matter to learned Collector, Surat vide order

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dated 11.03.1997. During the remand proceedings, learned Collector, Surat passed an order on 30.09.2006 fixing premium at Rs.1,512/- per sq. mtrs. The order of the learned Collector, Surat was assailed before the learned SSRD, who, on 01.09.2007 rejected the Revision and confirmed the order dated 30.09.2006 as well as the order dated 29.11.2006.

3.2 Being aggrieved and dissatisfied with the said decision, the petitioner is before this Court by way of the present petition.

4. Learned advocate for the petitioner, at the outset, contended that the application for permission to sell the land was granted by the learned Deputy Collector, Surat on 21.04.1988 and the holder of the land was directed to deposit an amount of Rs.32,333/- as premium fixed. However, after a gross delay of 5 years, the order dated 21.04.1988 was taken by learned Collector, Surat in *suo motu* Revision proceedings. The learned Collector set aside the order on 29.06.1996. The order of learned Collector was partly set aside by the learned SSRD vide order dated 11.03.1997 (05.04.1997) and remanded the case to learned Collector for fresh decision. The order passed by learned Deputy Collector dated

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21.04.1988 was complied with at the relevant point of time and, on 21.06.1993, SUDA granted development permission and on 22.07.1993, learned District Magistrate, Surat also issued no objection certificate for storage of explosives. A license was issued by government of India, Department of Explosives, on 06.08.1993 for possession and sale of explosives. On 09.05.1995, petitioner purchased the said land from Kevalbhai Sukhabhai Kantharia by way of a registered sale deed. Block No. 340 which was owned and possessed by petitioner is adjacent to the said land being Block No. 349. So far as Block No. 350 is concerned, premium was determined by the Government on 15.03.2005 at the rate of Rs.500/- per sq. mtrs. However, in respect of Block No. 349, premium is determined at the rate of Rs.1,512/- per sq. mtrs. on 30.09.2006. Therefore, it is submitted that the market price determined for levy of premium is arbitrary and discretionary and, therefore, the same be quashed and set aside and the premium for conversion of land into new tenure land for the use of non-agricultural purposes be determined as per the first application dated 25.04.1985 or the second application dated 26.11.1987 which was made by the predecessor in title. Learned advocate for the petitioner has placed reliance upon proceedings note of the

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meeting of District Assessment Committee held on 17.06.2004 while determining premium amount for Block No. 350.

5. Another limb of submission raised by learned advocate for the petitioner is delay caused in initiating *suo motu* proceedings by learned Collector. It is submitted that a gross delay of almost 8 years is fatal to the decision dated 29.06.1996. In support of his contentions, learned advocate for the petitioner has relied upon the decision in the case of ***"State of Gujarat vs. Patil Raghav Natha and Others" reported in (1969) 2 SCC 187.*** It is submitted that the powers under Section 211 of the Bombay Land Revenue Code must be exercised within few months of the order of the Collector as after the grant of permission, the occupant is likely to spend money on starting non-agricultural activities within few months of the permission. The order of the Collector was set aside by the Commissioner as the actions were taken after more than one year. Except above, no other submissions were made by learned advocate for the petitioner.

6. *Per contra,* learned AGP for respondent – State has supported the decision and contended that the order dated 21.04.1988 passed by the learned Deputy Collector in the

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application seeking permission to use the land for non-agricultural purposes was without jurisdiction as, at the relevant point of time, the decision to regularise the land was vested with the learned Collector. The learned SSRD, in Revision proceedings held that the order dated 29.06.1996 passed by the learned Collector, Surat was quashed and set aside after considering the fact that erstwhile owner of the land, Kevalbhai Sukhabhai Kantharia, having expired on 09.05.1995, names of his heirs were not mutated in revenue record and necessary notices were not issued to the legal heirs of deceased. The learned Collector was directed to decide the question afresh after giving full opportunity to the concerned parties after bringing on record legal heirs of deceased, Kevalbhai Sukhabhai Kantharia. In remand proceedings, learned Collector determined premium at Rs.1,512/- per sq. mtrs. and directed the petitioner to deposit the amount of Rs.1,04,47,944/- (Rs.1,04,80,277/- less Rs.32,333/-). The petitioner deposited an amount of Rs.15,00,000/- on 20.10.2006 and sought time to deposit remaining amount of premium. On 29.11.2006, learned Collector passed an order granting 21 days' time to the petitioner to deposit remaining amount of premium of Rs.89,47,944/-. The decision of learned Collector assessing market price of the land

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directing deposit of premium amount was assailed by the petitioner before the learned SSRD who rejected Revision Application. It is submitted that after the order of remand dated 11.03.1997 (05.04.1997), on 23.02.2004, petitioner gave consent to deposit premium amount as per current market price and, after consent, the order dated 30.09.2006 came to be passed by the learned Collector. It is submitted that the petitioner as well as the legal representatives of Kevalbhai Sukhabhai Kantharia accepted the order of remand and, therefore, petitioner, having been heard before assessing premium is estopped from challenging the orders passed by learned SSRD.

7. Learned AGP for the respondent – State has placed reliance upon the decision in the case of ***"Gohil Jesangbhai Raysangbhai vs. State of Guajrat"*** reported in 2014 (0) AIJEL – SC 55009 and submitted that the date for application of rate is the date on which sanction is granted by Collector and not from the date of application. Therefore, the prayer of petitioner to reassess the amount of premium for conversion of land from the date of application is erroneous and against the settled proposition of law. Except above, no other submissions were made by learned advocate for the respondent – State.

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8. Having considered the submissions made by learned advocates for the parties and upon perusal of the papers placed on record, undisputed facts that cull out from the record are that the original owner of the land, Kevalbhai Sukhabhai Kantharia applied for permission to sell the land bearing Block No. 349 of Village – Kadodara, Taluka – Kamrej, District – Surat for non-agricultural purposes on 25.04.1985. The application for requisite permission came to be rejected by learned Deputy Collector on 25.04.1985. When the erstwhile owner again applied on 26.11.1987 for the review of the order dated 29.05.1987, learned Deputy Collector, Surat, granted permission on 21.04.1988 and directed the land holder to deposit an amount of Rs.32,333/- being the amount of premium. Kevalbhai Sukhabhai Kantharia, by a registered sale deed, sold the land to the present petitioner on 09.05.1995. On 09.11.1995, Kevalbhai Sukhabhai Kantharia expired. After a period of almost 8 years of the order dated 21.04.1988, learned Collector, Surat initiated proceedings *suo motu* proceedings under Section 211 of Bombay Land Revenue Code, 1879. The order came to be quashed and set aside on the ground that learned Deputy Collector, Surat, had no jurisdiction to grant such permission for conversion of land and further directed

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the erstwhile owner to deposit the amount of premium. In the challenge proceedings before the learned SSRD by the present petitioner, vide order dated 11.03.1997 (05.04.1997), learned SSRD quashed and set aside the order dated 29.06.1996 and remanded the matter back to learned Collector, Surat for a fresh hearing after issuing notices to legal heirs of deceased Kevalbhai Sukhabhai Kantharia and after following due procedure. On 30.09.2006, learned Collector directed the present petitioner to deposit Rs.1,512/- per sq. mtrs. as premium after adding 12% increase per year in the market value of the land in question. The petitioner deposited an amount of Rs.15,00,000/- out of total premium amount of Rs.1,04,47,944/- on 20.10.2006. The petitioner, thereafter, on 30.10.2006 sought 3 months' extension time for deposit of remaining amount of premium. The request was partly considered and petitioner was granted 21 days' time to deposit remaining amount of premium. After accepting the order and having partly implemented the order dated 30.10.2006, the petitioner challenged the same before the learned SSRD questioning determination of premium at Rs.1,512/- per sq. mtrs. The challenge of petitioner stands on two footings: (i) the Government, while granting permission for non-agricultural use of

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Block No. 350 which is adjacent to Block No. 349 and owned by the present petitioner, premium was levied at Rs.500/- per sq. mtrs. (ii) Delay on the part of learned Collector, Surat in taking the decision dated 21.04.1998 in *suo motu* proceedings.

9. The conduct of the petitioner in the present petition is loud and clear. The order of learned Collector dated 30.09.2006 directing the petitioner to pay Rs.1,512/- per sq. mtrs. as premium has been accepted by petitioner and Rs.15,00,000/- towards part of premium came to be deposited on 20.10.2006. By a communication dated 30.10.2006, petitioner sought extension of time of three months for depositing the remaining premium amount, to which the learned Collector granted 21 days' time to deposit remaining amount of premium. Thereafter, petitioner challenged the order dated 30.09.2006 by way of Revision before learned SSRD. The core grievance raised by the petitioner before the learned SSRD was that he was not given any opportunity of being heard and the learned Collector has gravely erred in determining the amount on the date of decision / order. The petitioner never raised any other grievances against the determination of premium. When applicant partly implements a

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Collector's premium determination order and later challenges it, it triggers specific legal principles regarding estoppel and acquiescence. The petitioner herein, has waived its right to object in absence of any explicit understanding stating that the partial implementation or payment is without prejudice to legal right and contentions regarding final quantification. So far as the determination of premium is concerned, in catena of decisions, law has been laid down that the valuation of the land is to be determined and appropriate premium has to be recovered from the applicant on the date of decision of the application. The contention which is raised by petitioner that the determination of premium for the adjoining land bearing Block No. 350 ought to have been considered by learned Collector was never raised before the learned Collector at the time of determining the premium. Once the petitioner fails to raise the contention of comparison of premium of adjoining land *vis-a-vis* Block No. 349, the petitioner now cannot raise contention of comparison of premium amount determined of the adjoining land.

10. In the decision of the Hon'ble Apex Court in the case of ***Gohil Jesangbhai Raysangbhai Supra*** in paragraph No. 21, has observed as under:

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> *"21. It was submitted by the appellants that assuming that the valuation of the land is permitted to be done as per the Jantri rates, it must be so done on the basis of the rates as prevalent on the date of the application. The resultant injustice was highlighted in the case of Savitaben in Civil Appeal No. 4129/2012. The fact however, remains that the Section speaks of previous sanction. As noted earlier, Section 4(2) of the Bombay Paragana and Kulkarni Watans (Abolition) Act, 1950 also speaks about the previous sanction. Thus, this is the theme which runs through all such welfare agricultural enactments, and a similar provision in the said Act has been left undisturbed by the bench of three Judges of this Court. Therefore, the Jantri rate to be applied will be on the date of the sanction by the Collector, and not on the date of the application made by the party."*

11. Thus, the Jantri rate to be applied for determining the rates of the land not on the date of application made by the party but on the date of the sanction / decision taken by the Collector on the application. The decision in the case of ***Patil Raghav Supra*** is not applicable to the facts of the present case as the petitioner in the present case has partly acted upon the decision of the quantification of premium and after accepting the order, raised the grievance against the impugned order before learned SSRD.

12. In light of the above factual scenario, the present petition is dismissed. The petitioner is permitted to seek extension of time to

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deposit remaining amount of premium before the Authority and upon such request being made in writing, the Authority shall decide such application in accordance with law and after giving opportunity of being heard to the petitioner and shall communicate the decision in writing to the petitioner.

(D. M. DESAI,J)

MUSKAN

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