

ORDER BELOW EXH. 1 IN EXECUTION PETITION NO. 54/2025

1. Perused the record. As per the letter of this Court dated 12/03/2026, the Additional Collector, Bharuch, has submitted his reply. In the said reply, it is stated that while seeking a response from the defendants, the defendant raised an objection that they are not ready to comply with the order passed in Regular Civil Suit No. 13/2009.
2. Secondly, it has been mentioned that the Regular Civil Appeal preferred before the Hon'ble District Court has already been dismissed. Moreover, an objection has been raised that due to fragmentation, the partition is barred. It is important to note that, being a revenue authority, you do not have any power or discretion to entertain objections from the defendants when the Trial Court has already decreed the suit in favour of the plaintiff and the said decree has been confirmed by the Appellate Court. Further, with regard to fragmentation, this Court clarifies that although the land in question is agricultural in nature, the Gujarat Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (Act No. 62 of 1947) has no applicability in the present case. This conclusion is fortified by the judgment in **Babu Hirabhai vs. City Deputy Collector, Ahmedabad, reported in 2000 (2) GCD 1566**, wherein it was observed that, Under Sections 7, 8, 8-AA, 2(1), and 9 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, when the names of family members are mutated pursuant to a "family arrangement," it does not amount to an actual division by metes and bounds. Hence, such a situation does not attract the provisions of the said Act. It was further held that, Determination of shares among family members through a mutual family arrangement is not the creation of any new right, but rather a recognition of pre-existing rights. Therefore, mere division of shares does not amount to partition under the Act. Accordingly, the bar under the Fragmentation Act does not apply, and the partition as sought can be validly effectuate.
3. Lastly, it has been stated that the plaintiff's name is already recorded in the revenue record and therefore no hardship would be caused to the plaintiff. In this regard, this Court reiterates that mere entry in the revenue record is not proof of title and is only for fiscal purposes. Once the Civil Court has passed an order regarding possession and title, the revenue authority has no jurisdiction or discretion to adjudicate upon such issues. The order of the Civil Court is binding upon the revenue authority and must be strictly complied with.

4. In view of the judgment of the Hon'ble Gujarat High Court and the orders passed by this Court in Regular Civil Suit No. 13/2009 and Regular Civil Appeal No.5/2014, the decree in RCS No. 13/2009 has attained finality. You are hereby directed to partition the land within a period of 15 days from the date of receipt of this order and submit a compliance report to this Court. Failing which, proceedings for contempt of the Hon'ble Supreme Court and this Court shall be initiated against you.
5. The Registry is directed to forward a *yadi* to the Collector, Bharuch, along with copy of this order.

Signed and pronounced in open Court on this 7th day of April, 2026.

Place : JAGADIYA

Date : 07-04-2026

JAIVEER. S. RATHORE

ADDL.CIVIL JUDGE

JAGADIYA

(Code : GJ01695)