

ORDER BELOW EXHIBIT-5**APPLICATION.**

1. The plaintiffs state that, they are residing at the ancestral property situated at Nershan Tekari, Sama Kantha of Bhadar, Jetpur and description of the property is stated in para 16 of the plaint (hereinafter referred as 'suit property'). On 21.03.2025 the plaintiffs have received a notice regarding illegal encroachment and construction over the government land from the office of Mamlatdar and Executive Magistrate, Jetpur-City. on 27.03.2025 an another show-cause notice was given to the plaintiffs.

1.1 The plaintiffs further states that the plaintiffs do not admit the facts as stated in such notices. The plaintiffs have not done any illegal encroachment over the suit property and the notices issued by the representative of Government is illegal.

1.2 The plaintiffs state that they are not involved in any illegal activities and they have not been convicted by any Court. Thus, the notice issued on the base of antisocial elements is nothing but illegal notices. If the defendants are allowed to act as per the notices issued by them as stated in

para 17 of the plaint such demolition of the properties would result into irreparable loss to the plaintiffs and thus, to restrict the defendants from doing such act, the plaintiff has filed this suit and along with it he has filed the present application for interim injunction. The plaintiffs have also filed counter affidavit vide Exh.15 wherein they have denied the reply given by the defendants.

REPLY.

2. The summon were issued to the defendants and the same have been served. The Chief Officer, Nagarpalika Defendant no.4 has filed his written statement-cum-objection to the present application through his Learned Advocate vide Exh.10. For the rest of the defendants the Learned AGP has filed written statement-cum-objection vide Exhibit-11 & 12. The defendants (other than defendant no.4) in their reply has stated that the plaintiff no.1 and 3 are declared as antisocial elements by the Police Department. The plaintiffs are served with the notices dated 21.03.2025 wherein they were asked to produce their evidence/documents in regards to the ownership of the property within three days, however, the plaintiffs have not produced any such evidence/documents which establish their

legal ownership and possession over the property. On 27.03.2025 another show-cause notice was issued to the plaintiffs in continuation and in the context to the earlier notice issued on 21.03.2025. Again they have not produced any evidence or document to establish their legal ownership and/or possession over the suit property. The defendants being Public Officers are following the procedure as per rules. Thus, the plaintiffs are not entitled to get any relief as prayed by them in the suit property and present application and therefore, they deserves to be dismissed.

2.1 The defendant no.4 has filed his written statement-cum-objection to the plaint has stated that the plaintiffs have not followed the mandatory provisions prescribed under Section 80 of the Civil Procedure Code and Section 253 of the Gujarat Municipality Act. The plaintiffs do not have any prima-facie case as the suit property belongs to the Government. The plaintiffs have made illegal encroachment and possession over the Government Land. The wrong doer cannot be protected by the law. The plaintiffs have not produced any documents in regards to their legal ownership and/or possession over the suit property and therefore, the present application along-with the

suit requires to be dismissed.

DOCUMENTS.

3. The plaintiffs have produced following documents;

No	Description	Mark
1	Photocopy of Aadhar Card of plaintiff no.1	3/1
2	Photocopy of Election Identity Card of Plaintiff no.1	3/2
3	Photocopy of the receipt of Property Tax paid to Nagarpalika	3/3
4	Photocopy of the electricity bill	3/4
5	Photocopy of BPL Card	3/5
6	Photocopy of notices issued by the Mamalatdar, Jetpur-City and Chief Officer, Jetpur, Navagadh Nagarpalika dated 21.03.2025	3/6, 3/8, 3/10
7	Photocopy of show cause notices issued by the Mamalatdar, Jetpur-City and Chief Officer, Jetpur, Navagadh Nagarpalika dated 27.03.2025	3/7, 3/9, 3/11
8	Photocopy of reply given by the plaintiff no.1 to the Mamlatdar, Jetpur-City	3/12
9	Photocopy of notarized affidavit of Kiranben	3/13

	Lalitbhai Vegda	
10	Notice issued by the Mamlatdar Kacheri dated 01.04.2025 to Shardaben Hamirbhai Vegda	8/1
11	Resolution passed by the Nagarpalika dated 25.09.1992	8/2 & 8/3
12	Resolution no.153 to 161 dated 15.09.1993	8/4
13	Copy of survey no.68 and 86	8/5 & 8/6
14	Copy of sale-deed of Kanabhai Mudubhai Dabhi	8/7
15	Receipt of electricity bill	8/8
16	Light Bill	8/9
17	Property bill	8/10
18	The letter of DG and IG of Police, Gandhinagar	15/1
19	Assessment sheet of the suit property	15/2
20	Property tax and receipt	15/3
21	Letter of Tax Inspector, Jetpur, Navagadh-Nagarpalika	15/4
22	Rojkam	15/5
23	Property tax and receipt	15/6

4. The defendants have produced following documents;

No	Description	Mark
1	Photocopy of lay-out plan	17/1

ARGUMENTS.

5. The Ld. Advocate for the plaintiffs has argued that-

- The plaintiffs are residing in the suit property as stated in para no.16 of the present application.
- The suit property is an ancestral property of the plaintiffs.
- On 21.03.2025 Mamlatdar and Executive Magistrate has issued notice to the plaintiffs on the ground of illegal encroachment of government land.
- The plaintiff no.1 has replied to the notice on 24.03.2025 vide Mark 3/12 and specifically stated that no illegal construction on government land is done by the plaintiff.
- On 27.03.2025 second show-cause notice was issued by the defendants.
- The plaintiffs pay all the property tax and electricity bills of the suit property which are produced along-with the suit.
- The plaintiff has no alternative accommodation.
- This entire demolition is politically influenced.
- The resolution produced vide Mark 8/2 dated 25.09.1992

speaks about regularization of the property by taking the consideration. Thus, the defendants have to follow that resolution and they cannot demolish the suit property.

- The representative of Government is making false allegation on plaintiffs that they are declared antisocial and on this ground they want to snatch the ancestral property of the plaintiffs.
- From the documentary evidence the plaintiff is having the prima facie case if this application is not granted the defendant may sell the suit land to the third person which will cause irreparable loss to the plaintiff.
- Balance of convenience also lies in favour of the plaintiff.
- This applicant be granted.

6. The Ld. AGP for the defendants(other than defendant no.4) has argued that-

- The suit land is the property of government.
- The lay-out plan produced vide mark 17/1 verifies that on Government Kharaba Land the plaintiffs have illegal made huge encroachment.
- The plaintiffs are the bootleggers and involved with the many criminal offence and activities.

- The plaintiffs are not the innocent poor person under the disguise of depicting themselves as poor they are trying to misguide the Hon'ble Court.
- The defendants are simply following the procedure prescribed under the law.
- The plaintiffs are the criminals who have forcefully made encroachment over the government land and they have not come with clean hands before this Hon'ble Court.
- Neither they are the owner nor they have any title nor they have any documents to establish the ownership then how they can file this suit ?
- The plaintiffs have no locus standi to file this suit.
- The defendants gave notice on 21.03.2025 and again a show-cause notice on 27.03.2025 and today is 09.04.2025 but even today after almost 20 days the plaintiffs have not produced any documents which could establish their legal ownership.
- This application shall be dismissed.

7. The Ld. Advocate for the defendant no.4 has argued that-

- The plaintiffs have not served the mandatory statutory

notice under Section 80 of the CPC and under Section 253 of the Gujarat Municipality Act and therefore, in the light of the judgment passed by the **Hon'ble Gujarat High Court in Vishwanath Mohanlal Shetty versus the Chief Officer, 2016(0)AIJEL HC 234992** this suit is not maintainable in the eyes of law.

- The defendants are observing the due process under the law and therefore, they are not doing an illegal act on the contrary the act of the plaintiffs is completely illegal.
- When there is a right there is a remedy and right arise from the lawful act here the act of encroachment over the government land by the plaintiffs itself is an illegal act then how, the plaintiffs can claim any right before this Court.
- The learned Advocate have produced various authorities in support of his claim for the sake of brevity the same shall be considered at relevant places.
- The present application deserves to be dismissed.

POINT OF DETERMINATION.

8. Looking to the arguments of L.A. for the parties, materials on record and considering the nature of application following

points arises.

- 1) Whether prima-facie case lies in favor of plaintiff?
- 2) Whether balance of convenience lies in favor of plaintiff?
- 3) Whether plaintiff would suffer irreparable loss?
- 4) What order?

FINDINGS.

9. My findings on point of determination are as under.

- 1) In the Negative.
- 2) In the Negative.
- 3) In the Negative.
- 4) As per order.

REASONS.

10. Point Nos. 1 to 3

As all these points are interconnected to each-other, so to avoid repetition and for convenience, I have discussed them all together.

STATUTORY NOTICE.

11. For the purpose of brevity relevant part of Section 80 of The Code of Civil Procedure, 1908 is mentioned herein;

80. Notice .-

(1)*****

(2)[A suit to obtain an urgent or immediate relief against the Government (including the Government of the State of Jammu and Kashmir) or any public officer in respect of any act purporting to be done by such public officer in his official capacity, may be instituted, with the leave of the Court, without serving any notice as required by sub-section (1); **but the Court shall not grant relief in the suit, whether interim or otherwise, except after giving to the Government or public officer, as the case may be, a reasonable opportunity of showing cause in respect of the relief prayed for in the suit:Provided that the Court shall, if it is satisfied, after hearing the parties, that no urgent or immediate relief need be granted in the suit, return the plaint for presentation to it after complying with the requirements of sub-section (1).**

(3)No suit instituted against the Government or against a public officer in respect of any act purporting to be done by such public officer in his official capacity shall be dismissed merely by reason of any error or defect in the notice referred to in sub-section (1), if in such notice-

(a)the name, description and the residence of the plaintiff had been so given as to enable the appropriate authority or the public officer to identify the person serving the notice and such notice had been delivered or left at the office of the appropriate authority specified in sub-section (1), and

(b)the cause of action and the relief claimed by the plaintiff had been substantially indicated.]

11.1 The prime contention of the plaintiffs is that the defendants served them a notice dated 21.03.2025 wherein they were given the instruction to produce the documents regarding the ownership of the suit property till 24.03.2025 and again show-cause notice was given 27.03.2025 wherein they were asked to produce the relevant documents by 01.04.2025 failing of the same will result into removal of the suit property on 02.04.2025.

11.2 Thus, in the above urgent situation it is natural and obvious that the plaintiffs cannot give two months advanced notice as required under Section 80 of the CPC, 1908. The plaintiff along-with the suit have filed an application for the waiver of mandatory statutory notice and considering the urgency this Court has granted the same. The facts of the suit are so urgent in nature that expecting a notice under Section 80 of the CPC and under Section 253 of the Gujarat Municipality Act is not judicious and therefore, arguments of the Learned Advocate for the defendants have not followed the mandatory notices under Section 80 of CPC and under Section 253 of the Gujarat Municipality Act is not tenable.

IMPORTANT FACTS.

12. Before moving further and to have clarity of the facts it is necessary to keep in mind that the plaintiffs have knocked the door of justice for urgent relief by this application. The plaintiffs want this Court to restrict the defendants to act in regards to the notices dated 21.03.2025 and 27.03.2025. Thus, the plaintiffs state that they are the legal owner and they have not done any encroachment over the suit property and on the other hand the defendants say that the suit land belongs to the government and the plaintiffs have made illegal encroachment.

AUTHORITIES.

13. The defendant no.4 has relied on following authorities;

- The **Hon'ble Gujarat High Court in the case of Rameshbhai Revabhai Raval & Ors. versus The Director of Municipalities & Anr.** in Special Civil Application No.17640 of 2024 has observed that;

2. Heard learned advocate Mr. Sandip Patel for the petitioners. Learned advocate for the petitioners submitted that the petitioners herein are residents of Jetpur Navagadh Municipality and residing on the subject land since last 2 decades. All the petitioners are from weaker section of the society and therefore, sympathetic approach is necessary. Further, the petitioners are residing with their family on the subject

land which they had constructed after taking loan from the Bank. Therefore, dispossession from their residences would render them shelter-less.

2.2 Learned advocate for the petitioners further submitted that for their grievance, the petitioners had filed representations to the Chief Officer, Jetpur Municipality as well as Mamlatdar. In the said representation they had raised their grievances that they are residing on the subject premises since last 2 decades with their families and water, electricity and other necessary connections have been provided for their livelihood. Learned advocate for the petitioners therefore submitted that the notices may be quashed and set aside or in the alternative the respondent No. 2 - Municipality may be directed to provide alternative accommodation to the petitioners.

5. Considered the submissions and the documents on record. Upon revisitation of facts, it is noticed that the **petitioners herein are encroachers on Government land** which is pond land. As per the resolution of the State Government, no construction is permissible on water body. Therefore, the contention of the respondents that there is no enforceable right of the petitioners over the Government land merit acceptance. Further, notices were issued to the petitioners for removal of un-authorised construction for implementation of project, given to respondent No. 2 - Municipality by the State Government. From the communication dated 27.10.2023 (Annexure-R2, Page No. 79) it is evident that amount has been sanctioned by the State Government for development of pond under the project and accordingly the project was initiated and Phase 1 is over. The subject land is required for development and completion of Phase 2. Therefore, the submission of learned advocate for respondent No. 2 that the land is required for public project appears to be correct. Moreover, in the case of

Vora Zakirhusain Valibhai v.s State of Gujarat reported in 2021 (0) AIJEL-HC 242674, it is held as under:-

"25 Deciding a litigation of the present nature is quite painful. **The weaker sections of the society like the writ applicants in the present case, no doubt, have the basic human and constitutional right to shelter and it becomes the paramount duty of the State to fulfill those. However, it gives no person the right to encroach and erect structures or otherwise on footpaths, pavements or public space or at any place reserved or earmarked for a public utility. This is exactly what seems to have happened in the case on hand. It may be true that the writ applicants were residing at the place in question past couple of years, but, still, as a Court of Law, we should not be oblivious of the fact that it was nothing, but encroachment over the government land over a period of time. We are not impressed with the submission canvassed on behalf of the writ applicants that the writ applicants cannot be said to be encroachers as they have a right to shelter being both a fundamental as well as a human right.** The debate as regards the rights of encroachers over public land visavis the right to shelter should come to an end. This debate should not go on for a indefinite period of time. **Mere long possession, over public land by way of encroachment by itself, is not sufficient to say that the encroachers are not liable to be evicted as they have a right to shelter.** The right to shelter and encroachment are two different facets. An encroacher may save himself from being forcibly evicted only if during his period of stay over the encroached public land any enforceable legal right has crystallized in his favour. Otherwise, merely by asserting the "Right to Shelter", an encroacher, over public land, cannot say that he cannot be evicted. There is no way that an encroacher can enforce the "Right to Shelter" for

the purpose of protecting his unlawful possession. The right to shelter, which the writ applicants are talking about, is an obligation of the State. It is the State which has to discharge its obligation in this regard. **The documents like voter card, ration card, electricity bill, etc. do not confer upon encroachers any vested legal right in their favour to hold the possession.** Such document, at the most, may evidence of only one thing and that is possession. We may reiterate that the **right to shelter does not mean right to retain the government land encroached upon.** The right to shelter may be a fundamental right under the Constitution, but, certainly, no person has any right to retain the land encroached upon under the purported right to shelter. It is to be enforced under the provisions of the Constitution. It is extremely difficult for us to accept the South African Jurisprudence or the Kenyan Jurisprudence, as discussed above. Having realized this serious problem, the State Government issued a Government Resolution dated 3rd July 2003 laying down a policy by prescribing the eligibility criteria for the allotment of alternative land to various hutment dwellers in the various sectors of the city of Gandhinagar. It appears that a cutoff date fixed i.e 30th November 1999. The Government Resolution dated 3rd July 2003 referred to above enumerates 15 conditions for the grant of alternative accommodation. It is the case of the respondents that the writ applicants failed to fulfill such eligibility criteria and were declared not eligible for the alternative accommodation. It is the case of the respondents that mere possession of an identity card or voter card or the registration of the name in the survey list by itself is not sufficient to avail the benefits of the Government Resolution dated 3rd July 2003. We take notice of the fact that after detailed verification around 128 hutment dwellers were identified and recognized as eligible for alternative accommodation in terms of the Government Resolution dated 3rd July 2003. We also take notice of the fact that

a Coordinate Bench of this Court in the case of Arunaben Amratbhai Rohit and others vs. State of Gujarat rendered in the Letters Patent Appeal No.630 of 2018 in Special Civil Application No.7352 of 2018 took the view that the Government Resolution dated 18th July 2013 has been issued by the Urban Development and Urban Housing Department, the same would be applicable to the areas covered under the Gujarat Slums (Improvement, Abolition and Rehabilitation) Act, 1973 only. The subject land has not been declared as "slum" in accordance with the Act, 1973. We also take notice of the fact that the subject land is situated within the radius of the Gandhinagar Railway Station. The State Government wants to develop the land for a public project. The project is being executed by the Gandhinagar Railway and Urban Development Corporation (GARUD), a joint venture company of the Government of Gujarat and the Ministry of Railways represented by the Indian Railways Station Development Corporation."

XXXX 31 At this stage, we may quote few relevant observations made by a Division Bench of this Court in the case of Peoples Union for Civil vs. State of Gujarat rendered in the Special Civil Application No.3426 of 1998 and allied matters decided on 5th September 2000. We quote the relevant observations:

"##. Public properties are usually not protected by means of wire fencing or compound wall or by guard/watchman, and the concerned authorities are not taking enough care to ensure that the properties, particularly open land, are not encroached. **Therefore, not only that huts have been erected on such open plots, but in certain cases, even highrise buildings have been built up by encroachers.** If such encroachers have encroached upon public property for whatever reason and have erected huts or unauthorised construction, can it be said that they

cannot be ejected despite the fact that there is illegal and unauthorised construction and that property is required for a public purpose? The duty of the Court is to strike a balance between the two.

##. It may happen that due to negligence/inaction of public servants or due to pressure on the public servants from superior officers or other persons who are actively taking interest in other fields, no action is taken by the public servants either preventing persons from encroaching on open land or for removal of encroachments. They might have allowed in a given case on an assumption that the trespassers after getting job will find out their own accommodation. But the fact is, once a hut is constructed, it remains there and it is also known that the huts are sold and the advantage is taken subsequently in some cases by some builders also. The Apex Court, in OLGA TELLIS has observed that some slumlords are providing space on payment where a dwelling house or a hut is erected.

##. **In view of what is stated above, it is not obligatory on the part of the State/Corporation to provide alternative accommodation,** and it cannot be argued for a moment that in view of the judgment of the Supreme Court, it is the right of an encroacher either to stay at the encroached place permanently or to get an alternative accommodation. Even the Apex Court has not laid down an absolute principle that in all cases of removal of encroachments, the State/Corporation must provide alternative accommodation. It depends upon facts and circumstances of each case. At the cost of repetition, we would say that the Apex Court pointed out the facts situation and particularly ratio of free hold land, population etc. and yet granted benefit to the people settled prior to 1976.

##. As pointed out in the case of NAWABKHAN, in view of consistent influx of rural people to the urban areas and consequential growth of encroachments and slums affecting ecological balance, sanitation and safety of pedestrians, Government should provide infrastructural facilities for rural areas by proper planning and execution. It may be required to be stated that the efflux is not only intra State but also interstate.

##. Huge land is available with the State Government for disposal which was acquired under the provisions contained in the Urban Land (Ceiling & Regulation) Act. If from this land some portion is reserved for providing alternative accommodation to the hutment dwellers by making a scheme, the problem can be solved.

##. One must not also forget the fact that a person who has migrated to an urban area might have his own land or building in his home town/State. This aspect is also required to be considered while giving alternative accommodation. Merely because a person is residing in a hut after migrating to an urban area, it cannot be said that such a person is a poor person. Therefore, this aspect is also required to be kept in mind while fixing the norms for allotment. ##. It is also required to be noted that in cities, land is very scarce. Therefore the State Government should be vigilant to see that opportunities are made available to the public at different distant places (decentralisation) so as to avoid accumulation of population at a particular place. It is with this intention that industrial Estates are planned in rural areas which not only provide employment to residents of the rural area but also prevent efflux of rural public into urban areas. Therefore, when Industrial Estates are planned, it should be planned in such a way that schemes for residential houses are also provided to downtrodden persons coming to take employment in such Industrial Estates. More and more opportunities should be made available in rural areas so that people

from urban areas may shift to rural areas.

##. With regard to employment that can be offered to residents of rural areas, the Apex Court, in NAWABKHAN's case, pointed out that "it would be for the Union of India, all the State Governments and the Planning Commission, which are Constitutional functionaries, to evolve such policies and schemes as are necessary to provide continuous means of employment in the rural area so that in the lean period, after agricultural operations, the agricultural labour or the rural poor would fall back upon those services to eke out their livelihood."

XXXXXX 34 We summarize our conclusions as under:

(i) Right to shelter is a fundamental right, which springs from the right to residence assured in Article 19(1)(e) and right to life under Article 21 of the Constitution. It is a constitutional duty of the State to provide house sites to the poor.

(ii) Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. To bring the Dalits and Tribes into the mainstream of national life, providing these facilities and opportunities to them is the duty of the State as fundamental to their basic human and

constitutional rights. There could be no individual liberty without a minimum of property. The objective of 'facilitating adequate shelter of all' also implies that direct Government support should mainly be allocated to the most needy population groups.

(iii) Socioeconomic justice, equality of status and of opportunity and dignity of person to foster the fraternity among all the sections of the society in an integrated India is the arch of the Constitution set down in its Preamble. Articles 39 and 38 enjoins the State to provide facilities and opportunities. Article 38 and 46 of the Constitution enjoin the State to promote welfare of the people by securing social and economic justice to the weaker sections of the society to minimise inequalities in income and endeavor to eliminate inequalities in status. Basic needs of man have traditionally been accepted to be three namely food, clothing and shelter. The right to life is guaranteed in any civilised society. It is the duty of the State to construct houses at reasonable cost and make them easily accessible to the poor.

(iv) No person has a right to encroach and erect structures or otherwise on footpath, pavement or public streets or any other place reserved or earmarked for a public purpose. The State has the Constitutional duty to provide adequate facilities and opportunities by distributing its wealth and resources for settlement of life and erection of shelter to make the right to life meaningful, effective and fruitful.

[(i), (ii), (iii), (iv) vide *Rajesh Yadav vs. State of U.P.* reported in *Laws (All) 2019 (7) 57*].

[v] The weaker sections of the society, no doubt, have the basic human and constitutional right to shelter. However, it gives no person the right to encroach and erect structures, or otherwise, on any public place

saying that he has no other place to go. Mere long possession even with documents like voter card, ration card, electricity bill, etc., over any public land by way of encroachment, by itself, is not sufficient to say that the encroachers are not liable to be evicted, as they have a right to shelter. An encroacher can save himself from being forcibly evicted only if during his period of stay over the encroached land any enforceable legal right has crystallized in his favour. This legal right does not mean the mere constitutional right to shelter.

[vi] The State Government should identify and earmark certain lands acquired under the Land Ceiling Act and frame a uniform policy to allot them in accordance with people hailing from a very poor strata of the society. We remind the State Government that when it plans an industrial zone or commercial zone, the provisions should also be made for providing residential accommodation / housing facility to the downtrodden class or the persons taking up employment in the industries and for persons providing ancillary services.

[vii] Even under the Gujarat Town Planning and Urban Development Act, 1976, there is a provision for providing housing accommodation to the weaker sections of the society. As regards the areas covered under the Act, there is also a scheme about improvement in Chapter - XVI, which requires to be taken a serious note. It refers to improvement scheme, clearance area, redevelopment areas, provisions of housing accommodation in the poor class, land acquisition, levy of betterment charges.

[viii] The State Government should consider formulating scheme in line with the principles laid down by the Apex Court in the case of Nawabkhan (supra). In doing so, care shall be taken to ensure that the land so vacated by the slum dwellers is not reoccupied by another cluster of slum dwellers, and the alternative site is utilised by

the same citizens to whom it is allotted. Otherwise, it may happen that a particular person takes possession of the alternative accommodation and never goes there or dispose it of and the same person re- occupies the vacated premises or joins another cluster or slum dwellers in the vicinity. Moreover, the State/**Municipal/Local authorities must take due care to protect open plots from preventing it to be occupied by encroachers. If due care is not taken, ejection of slumdwellers and providing alternative accommodation will be a never ending process."**

14. Now, keeping in mind the observations made by the Hon'ble High Court in the above judgment, it is pivotal to note that **alongwith the suit the plaintiffs have not produced any document which preliminary establish themselves as the legal owner of the suit property.** Mark 3/3 is the property tax receipt produced by the plaintiffs which expresses that the land belongs to the government and they are in illegal possession of the suit property. Then naturally, they cannot claim right over the suit property. Here, **it is equally important to note that the first notice to the plaintiffs was served on 21.03.2025 and today is 09.04.2025 thus, in-spite of passing of 20 days, the plaintiffs have not produced any document to establish that they are the legal owners and in legal possession of the suit property.**

15. Prima-facie means from surface itself, without digging deep. From the application and the documents produced along-with, without appreciating the evidence, the court can make out some rational and reasonable preliminary conclusion that lies in favour of the applicant. Prima-facie case is the first, basic and the most important ingredient to grant the application on hand. Here when the plaintiffs have not proved the same, the rest of two ingredients i.e. the balance of convenience and irreparable loss also follows the same.

CONCLUSION.

16. It is pertinent to note that producing documents along-with the pleadings is one thing and producing such documents which go in harmony with the pleadings is another thing. To grant application like this, the documents produced must be of such a nature that on simple and plain reading of it, prima-facie case must bulge out in favor of applicant. Here, the documents produced by the plaintiffs are not substantial & satisfying enough for this court to preliminary believe the prima-facie case in favour of the plaintiffs. Thus considering all the above aspects, in the larger interest of justice I pass following final order.

ORDER

- 1)** This application is hereby rejected.
- 2)** No order as to costs at this stage.

Pronounced in open Court, today on this 9th day of April, 2025.

Place: Jetpur.
Date : 09/04/2025

Shrikant Dilipbhai Trivedi
Principal Sr. Civil Judge,
At Jetpur, Dist-Rajkot.
Code No. GJ01104

V.V.Pandey