

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 929 of 2026****In F/LETTERS PATENT APPEAL/596/2026
In R/SPECIAL CIVIL APPLICATION/829/2009****With
F/LETTERS PATENT APPEAL NO. 596 of 2026
In
R/SPECIAL CIVIL APPLICATION NO. 829 of 2009
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2026 In F/LETTERS PATENT
APPEAL NO. 596 of 2026
In
R/SPECIAL CIVIL APPLICATION NO. 829 of 2009****=====**
STATE OF GUJARAT THROUGH SECRETARY & ANR.**Versus****MAHESHWARI SEVA SAMITI REPRESENTED BY ITS TRUSTEE**
=====**Appearance:****MS. MAITHILI MEHTA, ASSISTANT GOVERNMENT PLEADER for the
Applicant(s) No. 1,2
MR CG SHARMA(823) for the Respondent(s) No. 1**
=====**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE D.N. RAY****Date : 05/03/2026****ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL)**

1. Mr. C. G. Sharma, learned advocate has put in appearance and submit that he has no instructions to appear on behalf of the respondent no. 1 in the present matter. His name be deleted from the cause-list.

2. This intra-court appeal is delayed by 916 days. In the

delay condonation application supported with the affidavit of the competent authority and the Deputy Collector (ULC), it is submitted that upon receiving the certified copy of the oral order dated 06.06.2023 passed by the concerned authority on 13.09.2024, opinion for filing the Letters Patent Appeal was sought from the office of the learned Government Pleader, High Court on 30.09.2024, which was received on 04.10.2024. Thereafter, documents alongwith the checklist were sent to the Legal Department on 08.11.2024, requesting to grant permission to file the Letters Patent Appeal. On 10.09.2025, the Legal Department, Government of Gujarat had communicated permission and, thereafter, the letter dated 12.09.2025 was sent by the Revenue Department to the Office of the learned Government Pleader, High Court, forwarding the permission letter of the Legal Department along with all the relevant papers, requesting to file appeal.

3. The appeal was presented before this Court on 07.01.2026, there are huge gaps at each level in the matter of forming opinion and preparation of the Letters Patent Appeal, which has remained unexplained, and as such, we cannot form our satisfaction to condone delay.

4. However, on the request made by Ms. Maithili Mehta, learned Assistant Government Pleader appearing for the State – appellant, we have proceeded to hear the appeal on merits, as well.

5. Having heard Ms. Maithili Mehta, learned Assistant Government Pleader appearing for the State – Appellant and perused the record, suffice it to note that the writ petition out of which this intra-court appeal has arisen, was filed by the State – appellant herein, to challenge the order dated 14.12.2007 passed by the Urban Land Tribunal in Appeal No. ULT/Ahmedabad/4/2007, which was passed on remand of the matter by this Court vide judgment and order dated 10.11.2006 passed in Special Civil Application No. 3470 of 1992. A perusal of the judgment and order dated 10.11.2006 passed by this Court, in the first round of litigation initiated by the respondents herein, indicates that the challenge therein was to the order of the rejection of the appeal and the original order dated 31.01.1989 passed by the competent authority of declaration of surplus land. The specific case of the petitioner therein (respondent herein) was that the

petitioner namely Maheshwari Seva Samiti Trust is a duly constituted that under the provisions of the Bombay Public Trusts Act, and in view of Section 19 (1) (iv) as contained in Chapter III of the Urban Land (Ceiling and Regulations) Act, 1976, exemption would be applicable with respect to the vacant lands being used for any public charitable or religious purposes. The writ Court has relegated the matter back to the competent authority while holding that the fact of the petitioner namely Maheshwari Seva Samiti Trust being a Public Charitable Trust duly registered under the provisions of Bombay Trust Act was not disputed, and hence, the applicability of the exemption under Section 19 (1) (iv) of the Chapter 3 of the Act, 1976 was required to be examined. The remittal to the appellate authorities was, thus, limited to the issue of exemption under the ULC Act, 1976.

6. The learned Single Judge in the judgment impugned herein, categorically records that the question also the Trust is not being registered under the Trust Act was not open for examination. As regards the possession, learned Single Judge records that the report of the Maintenance Surveyor dated 17.05.2007 that the Trust is not only in possession of

the land but religious activities are also being carried out, could not be disputed by the State petitioners therein.

7. Moreover, the ULC Tribunal while holding that the land in question is required to be exempted under Section 19(1)(iv) has also returned the finding that the land in question is being used by the Trust for religious and charitable purposes. With the application of the exemption under the Urban Land Ceiling Act, 1976, the question of taking physical possession of the land in question on 27.07.1992, as rightly held by the learned Single Judge, would be immaterial. The insistence of the State – petitioner before the writ Court that since the possession of the land in question had already been taken prior to the repeal of the Urban Land Ceiling Act by the Repeal Act No. 15 of 1999, the ceiling proceedings stood culminated, is neither here nor there.

8. Even otherwise, if it is accepted for a moment for the sake of arguments that the possession of the land in question was taken by the State on 27.07.1992, with the applicability of Section 19 (1) (iv), any proceedings of taking over the

possession of the land in question would be non-est, inasmuch as, the order of declaration of the land in question as surplus ignoring exemption available under the Urban Land ceiling Act, 1976, would be illegal.

9. With the above, even on merits, we do not find any error in the decision of the writ Court. The present appeal stands dismissed both on the ground of inordinate and unexplained delay as well as on merits.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

VARSHA DESAI