

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 763 of 2025**

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DIP COOPERATIVE HOUSING SOCIETY LIMITED

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR PARTHIV B SHAH(2678) for the Petitioner(s) No. 1

GOVERNMENT PLEADER for the Respondent(s) No. 1,2,3

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CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 05/03/2026

ORAL ORDER

1. Heard Mr. Parthiv B. Shah, the learned advocate appearing for the petitioner and Mr. Jayneel Parikh, the learned AGP appearing for the respondent – State.

2. By way of present petition, the petitioner herein has prayed for the following reliefs :-

“(A) YOUR LORDSHIPS be pleased to admit and allow this petition in the interest of justice;

(B) YOUR LORDSHIPS be pleased to issue a writ, or mandamus or writ in the nature of mandamus or any other appropriate writ, direction or order commanding the Respondents herein more

particularly Respondent nos. 2 and 3 to enter the name of the petitioner as owner of lands bearing survey nos. 314/1 and 314/2 admeasuring about 10141 sq.mtrs. situated at Village Sola, Taluka: Ghatlodia, District Ahmedabad, in the revenue records, in the interest of justice;

(C) Pending the admission, hearing and final disposal of the present petition, this Hon'ble Court be pleased to direct the respondent authorities more particularly Respondent nos. 2 and 3 to mutate the name of the petitioner as owner of the lands bearing survey nos.314/1 and 314/2 admeasuring about 10141 sq. mtrs. situated at Village Sola, Taluka: Ghatlodia, District Ahmedabad, in the revenue records, in the interest of justice;

(D) YOUR LORDSHIPS be pleased to grant such other and further reliefs as may be deemed proper by this Hon'ble Court;"

3. The petitioner herein seeks to issue direction qua the respondent Nos.2 and 3 to enter the name of the petitioner as owner of the land bearing Survey No.314/1 and 314/2 at Village Sola, Taluka Ghatlodia, District Ahmedabad for land admeasuring 10141 Sq. meters.

4 Briefly stated, a Sale Deed came to be executed in favour of the petitioner for the aforesaid land on 11.12.1975 for the land

admeasuring 12141 sq.mtrs., Upon Urban Land Ceiling and Regulation) Act, 1976 (hereinafter referred to as 'the Act 1976' for short) the proposed Dip Cooperative Housing Society Limited through its promoter Mr. Harshvadan Hathising Shah filed a statement under Section 6(1) of the said Act on 10.9.1976 before the Competent Authority declaring that the land held on behalf of the proposed society was used for the purpose of constructing dwelling units for the members of the society.

4.1 On 24.5.1979, an order came to be passed by the State Government under Section 20 of the Act 1976 granting exemption qua land bearing Survey No. 314/1 and 314/2 as the same was agricultural land from the provisions of Chapter III of the Act. The said order dated 24.5.1979, though referred to in the order dated 5.3.1988 passed by the Competent Authority and Deputy Collector, Urban Land Ceiling, Ahmedabad, was not available with the petitioner. Despite a request made by the present petitioner under the Right to Information Act, 2005, the said exemption order was not provided by the respondent – State under the Act. Thus, on one hand two exemption orders dated 24.5.1979 and 5.3.1988 were passed with respect to land bearing Survey No.314/1 and

314/2. On the other hand, contradictory order dated 23.6.1989 was passed by the self-same authority declaring 10141 Sq. meters of land bearing Survey No.314/1 and 314/2 as “excess vacant land”.

4.2 The petitioner herein approached the Urban Land Tribunal, Ahmedabad by filing an Appeal under Section 33 of the Act, 1976 to quash and set aside the order dated 23.6.1989 passed by the competent authority and Dy. Collector, Urban Land Ceiling at Ahmedabad. By judgment dated 29.1.1991 the Urban Land Tribunal, Ahmedabad dismissed the Appeal No.294 of 1989.

The aforesaid gave rise to filing of the Special Civil Application No.4430 of 1992, wherein by order dated 29/30.10.2007 the Special Civil Application came to be dismissed with cost of Rs.10,000/-.

4.3 Being aggrieved by the said judgment the petitioner herein preferred Letters Patent Appeal No.34 of 2008. Some of the members of the society being aggrieved by the order passed in the Special Civil Application No.4430 of 1992 preferred Letters Patent Appeal No.492 of 2014. One public interest litigation was also registered as Writ Petition (PIL) No.243 of 2012. By a common

CAV Judgment dated 16.4.2020 the Letters Patent Appeal No.34 of 2008 and allied matters were decided and Hon'ble Division Bench delivered a split verdict which thereafter referred to three Judges Bench, wherein by order dated 19.7.2024 allowed the Letters Patent Appeal No.34 of 2008 and allied matters. Paragraph-6.19 of the said order reads thus :-

“6.19 There is also an inherent deficiency in vestiture under Section 10(3). While determining excess vacant land at the time of making an order under Section 8(4) of the Act, individual holdings of the promoters of the proposed society were considered. The vestiture under Section 10(3) is therefore vitiated by consideration of individual holdings of the promoters while determining vacant land of the proposed society at the stage of Section 8(4) of the Act. Therefore, while testing the issues in light of the ratio laid down in Hari Ram (supra) and Bhaskar Jyoti (supra), we hold that the proceedings under the Ceiling Act must stand vitiated and the benefit of the Repeal Act must enure to the appellants/declarants. Having held so, we would hasten to add that our conclusion shall be aligned with the view taken by our esteemed brother Honourable Mr. Justice J.B. Pardiwala as he then was.”

4.4 The aforesaid judgment was rendered in favour of the petitioner. The respondent State challenged the said judgment, as referred to hereinabove, before the Hon'ble Apex Court by way of Special Leave Petition (Civil) Diary No.6420 of 2025 wherein the SLP preferred by the respondent – State came to be rejected by order dated 23.7.2025 whereby a reasoned order is passed by the Hon'ble Apex Court confirming the judgment rendered by the Full Bench in Letters Patent Appeal No.34 of 2008.

5. In light of the aforesaid, the proceedings, as referred to hereinabove, having attained finality, the name of the petitioner society be mutated in the revenue record.

6. Mr. Jayneel Parikh, the learned AGP upon instructions submits that the respondent State is in process of preferring Review Application before the Hon'ble Apex Court.

7. In view of the aforesaid, Mr. Shah, the learned advocate has placed on record an undertaking dated 2.3.2026 wherein it is stated that, the petitioner herein would abide by any order that may be passed in the Review Application, if any, that may be filed by

the respondent – State.

8. It is apposite to reproduce said undertaking tendered by the petitioner herein dated 2.3.2026 which read thus :-

“UNDERTAKING

I Manthan Shakrabhai Patel, Aged: 38 years, Residing at: A/4, Bapukrupa Society, Gurukul, Ahmedabad, I am the Secretary of Dip Co.Op. Hou. Society Limited – Petitioner herein, do hereby undertake that if State files any review application against the order dated 23.07.2025 passed by the Hon'ble Supreme Court of India in SLP (Civil) Dairy No.6420 of 2025, the outcome of the said review application would be binding to the petitioner and the petitioner would abide by the order that maybe passed by the Hon'ble Supreme Court in the review application if filed in SLP (Civil) Dairy No. 6420 of 2025.

It is stated that tiling of the present undertaking is without prejudice to rights and contentions of the parties and petitioner reserve his right to object the review application on all legal counts. The Petitioner is agreeable if the Hon'ble Court grants relief as sought for in the captioned Special Civil Application, subject to the order that may be passed by the Hon'ble Supreme

Court in review application if any filed by the State Government as mentioned hereinabove.

Date: 02.03.2026.

*Manthan Shakrabhai Patel
Secretary of Dip Co.Op. Hou.
Society Limited”*

9. With the aforesaid observations and direction, the proceedings undertaken against the petitioner herein, in the opinion of this Court, having attained finality the present petition deserves to be allowed and the same is allowed.

K.K. SAIYED

(VAIBHAVI D. NANAVATI,J)