

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 4674 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE DEVAN M. DESAI**

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Approved for Reporting	Yes	No
		✓
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HEIRS OF DECEASED MANGALSINH RAISINH RANA & ORS.

Versus

BEZUBA @ BHARPURKUVARBA D/O BHAGVANSINH AMARSINH & ORS.

Appearance:

MR JAIMIN H SHAH(12970) for the Petitioner(s) No. 1,1.1,1.2,2

MR DIPEN SANKHESARA(5955) for the Petitioner(s) No. 1,1.1,1.2,2

MR CHIRAG UPADHYAY, AGP for the Respondent(s) No. 3

MR CHINMAY M GANDHI(3979) for the Respondent(s) No. 2

CORAM:HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 01/05/2026**JUDGMENT**

1. The present petition is filed under Article 226 and 227 of the Constitution of India, 1950 praying for the following reliefs:

“(A) Your Lordships may be pleased to issue writ of certiorari and / or any other appropriate writ, direction and order to quash and set aside the order dated 20.1.2025 passed by the Principal Senior Civil Judge, Vagra, inter alia dismissing the application filed at Exh. 34 in Regular Civil Suit No. 18 of 2015 (Old Special Civil Suit No. 31 of 2011)

(B) Pending hearing and final disposal of the petition, Your Lordships be pleased to stay the further proceedings of Regular Civil Suit No. 31 of 2011.

(C) To pass such other and further order/s necessary in the interest of justice.”

2. Heard learned advocate Mr. Dipen Sankhesara for learned advocate Mr. Jaimin Shah for the petitioners and learned AGP Mr. Chirag Upadhyay for respondent No. 3. Learned advocate Mr. Chinmay Gandhi for respondent No. 2 remained absent.

3. The plaintiffs have filed a suit for specific performance coupled with a relief of declaration and permanent injunction against the defendant – respondent No. 1 herein. Pending suit, the suit land being Block No. 1161 admeasuring 2-25-61 Hec-Are-sq.mtrs., more particularly, situated in Moujhe – Dahej, Taluka – Vagra, District – Bharuch, came to be acquired by the present respondent Nos. 2 and 3. As the performance of the registered agreement to sell, considering the land being acquired, was not possible, plaintiffs filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter, referred to as “the Code”) for amendment in the plaint. The application came to be rejected by the learned Court below on 20.01.2025, against which, petitioners are before this Court by way of the present petition.

4. Learned advocate for the petitioners, at the outset, contended that under the registered agreement to sell dated 01.02.1996, executed by the present respondent No. 1 in favour of

the petitioners, a suit for specific performance came to be filed. Pending suit, the land in question was acquired by GIDC. A request was made to the concerned authority not to disburse compensation in favour of the respondent No. 1. The Land Acquisition Officer, Bharuch, GIDC disbursed 90% of the amount of compensation in favour of defendant No. 1. Therefore, an application under Order VI Rule 17 of the Code amending the plaint was filed for impleadment of respondent Nos. 2 and 3 as defendants and also incorporating reliefs with regard to claim of compensation to be disbursed in favour of the plaintiffs. It is further submitted that as the performance of the registered agreement to sell dated 01.02.1996 is not permissible. Amendment application is maintainable to avoid multiplicity of proceedings. Such amendment would not alter the nature of the suit. It is submitted that the petitioners are entitled for the compensation ordered by the Land Acquisition Officer. It is contended that the learned Trial Court has committed an error by not granting the application. Except above, no other submissions were made by learned advocate for the petitioners.

5. *Per contra*, learned AGP for respondent No. 3 has supported the order impugned and submitted that the suit instituted by the

plaintiffs is for a relief of specific performance coupled with a relief of declaration and permanent injunction. As the suit land has been acquired by GIDC, the performance of the contract is now not permissible. However, by way of amendment and making a request to implead respondent Nos. 2 and 3 as defendants in the suit would completely alter the nature of the suit. It is further submitted that the amendment in such form is not permissible. Except above, no other submissions were made by learned AGP for respondent No. 3.

6. Having considered the submissions canvassed by learned advocate for the parties, it appears that the suit is filed for a relief of specific performance of a registered agreement to sell dated 01.02.1996. Admittedly, the land in question is acquired by GIDC during pendency of suit. The only grievance which has been raised by the petitioners in the application under Order IV Rule 17 of the Code is that acquiring authority has disbursed 90% of the compensation to defendants pursuant to acquisition proceedings. Plaintiffs, under the registered agreement to sell, are entitled to receive entire amount of compensation. The plaintiffs have sought to amend the following in the plaint by way of the amendment application:

“(3) The proposed amendment shall be added as Para 5(A) after Para No. 5 of the plaint as follows:

(5)(A) The land acquisition amount of the said land in suit being Rs.5,80,35,681/- has been wrongly paid by the proposed defendant Nos. 2 and 3 to defendant No. 1 in this matter. We, the plaintiffs, are fully entitled to recover the said acquisition amount from the assets and properties of the defendants of this case which have been received by defendant No. 1. Furthermore, we, the plaintiffs, have complete right, title, and interest over the remaining 10% amount of the G.I.D.C. acquisition (i.e. Rs.5,10,29,314/-) which is deposited with the G.I.D.C. Moreover, we, the plaintiffs are entitled to receive the said amount. The defendants do not have any right, title, or interest therein. The necessity to file this suit has also arisen to obtain such relief.

(4) It is prayed to allow the following amendment as 3(A) after relief No. 3 in Para-9 of the plaint.

3(A) Be pleased to declare that, it is absolutely wrong that, the G.I.D.C. and the Deputy Collector & Special Land Acquisition Officer, G.I.D.C., have paid 90% acquisition amount of the suit land to the defendant, which is Rs.90,35,681/- (Rupees Ninety Lakh Thirty-Five Thousand Six Hundred Eighty-One Only).

3(B) Be pleased to pass a decree in favour of us, the plaintiffs, declaring that we, the plaintiffs, are entitled to receive the 90% amount of the said acquisition, so that we, the plaintiffs, can recover the said amount from the defendants.

3(C) Be pleased to pass a decree in favour of me, the plaintiff, so that I, the plaintiff, can recover the remaining acquisition amount of the said suit land of Rs.5,10,29,314/- from the defendants.”

The nature of the suit was a relief of specific performance whereas if the proposed amendment is permitted, it would change the nature of the suit and the entire complexion of the dispute would be changed as well. If the proposed amendment is perused, the plaintiffs are proposing to add contentions with regard to acquisition and the disbursement of the amount of compensation to the defendants. The plaintiffs intend to incorporate prayers to the effect that the amount of Rs.90,35,681/- which has been disbursed in favour of defendants be declared as null and void and further, prayed for a relief that it be declared that plaintiffs are entirely entitled to the amount of compensation. If the nature of the suit and the proposed amendment are considered, it can very well be said that there is no link between the cause of action of the suit and proposed amendment. Amendment would normally be allowed if same are formal and does not alter the nature of suit. As the proposed amendment is devoid of merits, the learned Trial Court, in my opinion, has rightly rejected the application for amendment. I do not find any reason to interfere with the findings arrived at by the learned Trial Court while rejecting the application for amendment. Therefore, the present petition lacks merit and the same is hereby dismissed.

7. However, the petitioners herein may initiate appropriate proceeding, if permissible under the law, for voicing out their grievances and reliefs with regard to entitlement of amount of compensation. If any such request is made by the petitioners, the concerned Court / authority shall decide the same in accordance with law.

(D. M. DESAI,J)

MUSKAN

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MUSKAN AJAY MENON(HC02359), ENGLISH STENO GRADE-II, at High Court of Gujarat on 06/05/2026 13:03:45