

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION (FOR CHALLENGING
VIRES/ULTRA VIRES) NO. 947 of 2024

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RAJKUMAR RAMNARAYAN MISHRA & ORS.
Versus
STATE OF GUJARAT & ORS.

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Appearance:
ALPESH D ARYA(8839) for the Applicant(s) No. 1,2,3,4,5,6
CHETAN D KARIYA(8819) for the Applicant(s) No. 1,2,3,4,5,6
MR KEVAL R DHOLAKIYA(12277) for the Respondent(s) No. 3
MR P P MAJMUDAR(5284) for the Respondent(s) No. 3
MS MAITHILI MEHTA, ADDITIONAL PUBLIC PROSECUTOR for the
Respondent(s) No. 4

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CORAM: HONOURABLE THE CHIEF JUSTICE MRS.
JUSTICE SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE D.N. RAY

Date : 04/11/2025

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

1. In so far as the prayer (a) to the writ petition concerned, learned counsel for the petitioners does not want to press the said prayer, inasmuch as the validity of the Land Grabbing Act has been upheld by this Court vide judgment and order dated 09.05.2024 passed in Special Civil Application No.2995 of 2021.

2. The present petition arises out of a complaint lodged by

the respondent no.3 against the petitioners herein under the *Gujarat Land Grabbing (Prohibition) Act, 2020*.

3. The contention in the writ petition is that the petitioner no.1, petitioner no.2 and husband of petitioner no.4 were the tenants of the property in question being DBZ - N - 158, Ward 12/A, Gandhidham - Kachchh and the said fact is not disputed by the complainant - respondent no.3 in the original suit namely Regular Civil Suit No.107 of 2009. The further contention in the writ petition is that the suit for eviction of the petitioners has been decreed vide judgment and decree dated 06.01.2022 and the petitioners have preferred First Appeal alongwith the delay condonation application No.47 of 2023 before the Additional District Judge, Gandhidham - Kachchh. The respondent instead of filing execution petition seeking for execution of decree, filed a complaint under the *Gujarat Land Grabbing (Prohibition) Act, 2020* in the shape of First Information Report was lodged with Gandhidham 'A' Division Police Station, District - Kachchh on 21.11.2023. In the said complaint, the petitioners are termed as land grabbers though occupied the house property as tenant.

4. Be that as it may, the appeal filed by the petitioners challenging the decree dated 06.01.2022 has been withdrawn vide judgment and order 06.09.2025. It is submitted by the learned counsel for the petitioners that the physical possession of the house property has already been handed over to the complainant in view of the compromise arrived between the parties.

5. Taking note of the above, we find that in view of the civil court decree, the dispute being purely civil in nature arising out of a proceeding in the Civil Suit filed by the complainant, the criminal complaint/ FIR lodged under the Land Grabbing Act, 2020 was nothing but an act of coercion on the part of the complainant by misusing the process of law.

6. However, before parting with this order, pertinent is to note that this case presents a sorry state of affairs on the part of the State Authorities who had entertained a complaint under the Land Grabbing Act filed at the instance of respondent no.3 against three persons who remained in jail for a period of about 2 & 1/2 months. It is submitted by the learned counsel appearing for the petitioners that all family

members of the petitioners namely, the occupants of the house property were charge-sheeted though the First Information Report was lodged only against three persons namely the petitioner nos.1, 2 and a dead person named as Shivkumarar. Due to high-handedness of the State Authorities, both the petitioner nos.1, 2 and 3 remained in jail and the contention is that they are to be compensated by the State Authorities for damage to their social reputation and loss of personal liberty, in a matter where the dispute was of purely civil nature and the eviction decree was passed in the Civil Suit.

7. The contention is that the State Authorities could not have entertained the First Information Report and, more so, they have proceeded to make an inquiry and submit the charge-sheet under the Land Grabbing Act in such a matter pertaining to the dispute between landlord and tenant.

8. All these submissions made by the learned counsel for the petitioners has resulted in passing of the order dated 25.01.2024 whereby we have called for the explanation of the Collector concerned.

9. Vide order dated 25.01.2024 we have called for the report of the Collector to explain as to how and in what circumstances the proceedings under the Gujarat Land Grabbing Act, 2020 had been initiated on the complaint of a person namely, respondent no.3 who had obtained the decree of possession on the premise of change of user in a tenement wherein predecessor-in-interest of the petitioners had been inducted as a tenant. The dispute being between landlord and tenant, in our considered opinion, the complaint under the Land Grabbing Act could not have been lodged resulting into deprivation of the personal liberty of the petitioners who remained in jail for a period of 2 & 1/2 months. No affidavit of the Collector in compliance of the order dated 25.01.2024 has been filed till date.

10. Taking strong reservation to the attitude of the Collector in not responding to this Court inspite of clear directions issued in an order passed about more than one year ago, on the request made by Ms. Maithili Mehta, learned Additional Public Prosecution appearing for the State respondents, we post the matter on 18.11.2025 making it clear that in case

there is no response of the Collector, the Court will be forced to pass an adverse order.

Put up this matter on ***18.11.2025 at 01:00 p.m.***

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

A. B. VAGHELA