

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 1395 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**

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Approved for Reporting	Yes	No
		✓
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PARESHBHAI SHANKARBHAI CHAUDHARY

Versus

STATE OF GUJARAT & ORS.

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Appearance:
 MR. ARCHIT P JANI(7304) for the Petitioner(s) No. 1
 MS DHARITRI Y PANCHOLI, ASSISTANT GOVERNMENT PLEADER for the
 Respondent(s) No. 2,3,4
 NOTICE SERVED BY DS for the Respondent(s) No. 2,3

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CORAM: HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**Date : 05/05/2026****ORAL JUDGMENT**

1. Heard Mr. Archit P. Jani, learned advocate appearing for the petitioner and Ms. Dharitri Y. Pancholi, learned AGP appearing for the respondents.

2. Rule returnable forthwith. Ms. Dharitri Pancholi, learned AGP waives service of rule for and on behalf of the respondent – State.

3. By way of the present petition, the petitioner herein has prayed for the following prayers:

“(A) Your Lordships may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction, quashing and setting aside the orders [(i)

01.07.2023 (Annexure-F), (ii) 22.08.2023 (Annexure-G), (iii) 07.11.2023 (Annexure-H), (iv) 29.01.2024 (Annexure-J) and (v) 22.01.2025 (Annexure-K)] passed by the respondent No.2 Collector, Mehsana, rejecting/disposing applications for conversion of subject land from agricultural to non-agricultural use under Section 65 of the Gujarat Land Revenue Code, 1879;

(B) Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondent No.2 - Collector, Mehsana, to decide the petitioner's application dated 17.12.2025 (Annexure-L) for conversion of the subject land bearing Survey No. 3628, situated at Village Visnagar, Taluka Visnagar, District Mehsana pass appropriate order allowing the application, for non-agricultural purpose, in accordance with Section 65 of the Gujarat Land Revenue Code, 1879;

(B-1) This Hon'ble Court may be pleased to quash and set aside the order dated 27.01.2026 passed by the Collector Mehsana (Annexure-Q) and be further pleased to direct the Collector, Mehsana to reconsider the application of the Y Petitioner for Non-Agriculture permission afresh and pass an appropriate order in accordance with law.

(C) Pending the admission, hearing and final disposal of the present petition, Your Lordships may be pleased to stay execution, operation and implementation of the orders (dated (i) 01.07.2023 (Annexure-F), (ii) 22.08.2023 (Annexure-G), (iii) 07.11.2023 (Annexure-H), (iv) 29.01.2024 (Annexure-J) and (v) 22.01.2025 (Annexure-K)) passed by the respondent No.2 Collector, Mehsana,

(D) Pending the admission, hearing and final disposal of the present petition, Your Lordships may be pleased to direct the respondent no.2 to decide the application. expeditiously and issue order under section-65 of Gujarat Land Revenue Code. 1879;

(E) Your Lordships be pleased to grant such other and further relief/s and/or order as deemed fit in the facts and circumstances of the case and in the interest of justice."

4. By way of this petition, the petitioner has challenged the impugned orders passed by the respondent No. 2 – Collector, Mehsana; whereby the application filed by the petitioner under Section 65 of the Gujarat Land Revenue Code, 1879 (hereinafter referred to as “the Code”) seeking conversion of the land bearing Survey No. 3628, old Survey/Block No. 2350 situated at Village Visnagar, Taluka Visnagar, District Mehsana, which came to be rejected by the impugned orders dated 01.07.2023, 22.08.2023, 07.11.2023, 29.01.2024, 22.01.2025 and 27.01.2026 respectively on the ground that it is to be verified that the proceedings under the Tenancy Act is initiated or not pursuant to the order passed by the Hon’ble Civil Court which is recorded vide mutation Entry No. 47487 and in view thereof, the petitioner’s application is consigned to file by the impugned orders as referred to hereinabove, the first order dated 01.07.2023 and other subsequent orders as referred to hereinabove.

Application Number	Impugned order date
30404202302560	01.07.2023
30404202303434	22.08.2023
30404202304523	07.11.2023
30404202305578	29.01.2024
30404202404083	22.01.2025
30404202505274	27.01.2026

5. Mr. Jani, learned advocate submits that he relies on the certificate of the Agriculturist duly produced on record at Page 6 and submits that the petitioner herein is in receipt of a valid certificate of agriculturist issued by the Prant Officer, Visnagar at Mehsana on 13.10.2020. The petitioner herein has purchased the land in question by way of a registered sale deed. It is submitted that in absence of any proceedings against the petitioner herein, the impugned orders passed by the competent authorities are required to be quashed and set aside.

6. Ms. Dharitri Pancholi, learned AGP is not in a position to dispute the aforesaid factual position.

7. Considering the submissions made by Mr. Jani, learned advocate appearing for the petitioner, it is not in dispute that no proceedings whatsoever were initiated against the predecessor-in-title of the land in question under the Tenancy Act.

8.1. It is apposite to refer to the ratio laid down in LPA No. 1181 of 2025 and allied matters with CA (for condonation of delay) No. 4716 of 2025, wherein, the Hon'ble Division Bench reiterated the ratio laid down in Tusharbhair Ghelani. It is apposite to refer to Para-14 to 18 and 25 of the said judgment, which reads thus:

“14. The impugned order dated 24.12.2024 records that the affidavit filed by the Collector, Vadodara was taken on record and the said affidavit though started with an apology, but the collector tried to justify the reasons for passing the orders impugned dated 28.10.2024 and 29.10.2024 for rejection of the NA application, more particularly, as regards the probability of the provisions of Agricultural Land Ceiling Act being violative on account of the Entry No. 780 dated 06.02.1985. It is noted by the learned Single Judge in the order impugned that the Collector, Vadodara has failed to appreciate the law laid down by this court in the case of **Tusharbai Harjibhai Ghelani and Anr. Vs State of Gujarat and Ors. [2019 (4) GLR 2578]**, which was the basis of passing the judgement and order dated 31.01.2024 wherein the scope of inquiry under Section 65 of the Bombay Land Revenue Code, 1879 has been laid down.

15. The writ court records that in the first round of litigation vide judgment and order dated 31.01.2024, the Coordinate Bench had specifically laid down that Section 65 of the Bombay Land Revenue Code, 1879 provides for the use to with an occupant of the land for the purposes of agriculture may put his land to. The key words in section 65 of the Code is the occupant of the land and it is sufficient for the purposes of Section 65 of the Code that the person applying for NA permission is the occupant of the land. The question about the title or ownership over the land in question for which NA permission is sought, cannot be examined within the scope of Section 65 of the Bombay Land Revenue Code, 1879. It was also noted that in the facts of the present case, the petitioners therein (herein as well) stand at a better footing as they are not only occupants of the subject lands but also the owners thereof by virtue of the registered Sale Deed dated 06.09.2022. It is also noted that the registered sale deed has not been cancelled or held invalid by any competent Court of law.

16. The judgment and order dated 31.01.2024 passed by the writ court allowing the writ petitions of the year 2023 categorically records that the Collector, Vadodara while rejecting the applications for conversion of the land into NA land had travelled back in time in respect of history of the lands in question

about 30 years ago. The questionable entries being revenue entries of 30 years old could not have been made basis for rejection of the NA applications. Some entries mutated on account of the Will could not have been disputed on the doubts raised in the order as to whether there was a blood relationship between the parties (executant and the beneficiary) or not

*17. It was noted that the impugned order indicated of some alleged illegalities committed sometime in the years 1980s and 1990s which was not the subject matter of scrutiny to raise any doubt about the title of the petitioners over the lands in question so as to take it a ground for rejection of NA applications. It is also noted by the writ court in the first round that nothing came out from the record as to whether any proceedings were initiated in respect of any of the shortcomings mentioned in the orders impugned for rejecting NA permission. In absence of there being any other material and also the fact that the petitioners are bona fide purchasers of the land in question, being the last persons in the chain of transactions, NA applications moved by them could not have been rejected. The writ petitions were allowed taking note of the ratio of law laid down by the Coordinate bench in **Tusharbhai Harjibhai Ghelani (supra)** vide judgment and order dated 31.01.2024 with the above noted categorical observations by the writ court to remand the matter to the Collector, Vadodara for fresh decision.*

18. Taking note of the above, it is neither understandable nor acceptable as to how that the Collector, Vadodara could have rejected the fresh applications filed by the petitioners in the second round by passing the orders dated 28.10.2024 and 29.10.2024 on the very selfsame grounds on which the NA applications filed in the year 2023 were rejected.

25. Noticing the above, we find that the officers holding the office of Collector, Vadodara at the relevant point of time have failed to apply their minds to the settled legal position pertaining to the inquiry to be made under Section 65 of the Bombay Land Revenue Code, 1879 in utter ignorance of the decision of this Court in Tusharbhai Harjibhai Ghelani (supra). The attitude of the officers in passing repeated orders

putting caveat about the title of the predecessor in interest of the petitioners by digging graves, to reject the NA permission was without any substantive basis. There is nothing on record even in the present set of appeals filed by the State appellant which would indicate that any legal proceedings had ever been initiated with respect to the revenue entries made in favour of the predecessors in interest of the petitioners. All doubts raised in the first set of orders of rejection of the NA permission of the year 2023 till the third set of orders of rejection of the year 2025, were without any basis."

8.2. It is also apposite to refer to the ratio laid down by the Hon'ble Court in the case of **Tusharbai Harjibhai Ghelani and Anr. v/s. State of Gujarat and Ors.** reported in **2019 (4) GLR 2578**, relevant Para-34 to 44 reads thus:

"34. Tested on the touchstone of the above principles, the impugned order passed by the Collector, in my view, is not sustainable.

35. Section 65 of the Code, referred to above, on its plain reading, do not provide for any scope of raising objection by any party who is yet to establish its right in his favour over the land in question. In other words, the proceedings under section 65 of the Code is not an adversary proceeding at all.

36. In section 65 of the Code, referred to above, two words are of pivotal importance; (i) "occupant" and (ii) "holding". Section 3(12) defines the term "holding". It reads as under;

"3(12):-"holding":- "holding" means a portion of land held by a holder"

37. Section 3(16) defines the term "occupant". It reads under; "3(16):-"occupant"; "occupant means a holder in actual possession of unalienated land, other than a tenant; provided that where the holder in actual possession is tenant the landlord or superior landlord, as

the case may be, shall be deemed to be the occupant."

38. Thus, the plain reading of section 65 makes it clear that for the purpose of grant of N.A. Permission, the first thing the Collector should look into is whether the applicant, seeking N.A. Permission, is an occupant of the land which is being assessed or held for the purpose of agriculture. For the purpose of ascertaining this, the Collector is expected to look into the revenue records. The name of the applicant in the revenue records would prima facie go to show or rather indicate that he is the occupant of the land. The second step in the process would be to ascertain whether such land is being assessed or held for the purpose of agriculture.

39. Section 65 of the Code provides for the uses to which an occupant of land for the purpose of agriculture may put his land to. If the occupant of the land wishes to use the land for purposes other than the agriculture or agriculture-related activities, he is required to make an application to the Collector for permission to do so. It may be noted that the key-word in Section 65 is the occupant of the land. It is sufficient for the purposes of Section 65, that the person applying for NA Permission is an occupant of the land. It is nowhere stated in the said provision that the applicant should have title or ownership over the land for which NA Permission is sought. The legislature, in its wisdom, has thought it fit that it should suffice if an occupant of the land applies for NA Permission. It is not necessary that such person has to prove his title to the land before he makes an application. The present case is on a far better footing. Not only are the petitioners occupants of the land, they are also the owners thereof, by a legal and valid registered Sale Deed. The said sale deed may be a subject matter of challenge before the Civil Court but the fact remains that the Civil Court has not yet passed any decree cancelling the same or declaring it to be illegal or obtained by fraud.

40. Thus, it transpires that, no power is available to the Collector under Section 65 of the Code to examine or conclude regarding the title of the writ applicants over the land in question. A bare reading of the said provision makes it clear that it only provides for the uses to which an occupant of land for agricultural purposes, may put his land to. The provision further lays down the procedure to be followed for making an application for NA Permission

by the occupier and the manner in which it is to be processed by the Competent Authority. Nowhere is it contemplated in Section 65 that the Collector is empowered to undertake an inquiry into the title of the occupier.

41. A perusal of the impugned order dated 19th November, 2014 passed by the Collector makes it clear that the reason for the rejection of the application of the writ applicants is that their title to the land in question is defective on the ground that two civil suits are pending.

42. In State of Gujarat v. Patel Raghav Natha, (1969) 2 SCC 187, the Supreme Court has clearly held as below "14. We are also of the opinion that the Commissioner should not have gone into question of title. It seems to us that when the title of an occupant is disputed by any party before the Collector or the Commissioner and the dispute is serious the appropriate course for the Collector or the Commissioner would be to refer the parties to a competent Court and not decide the question of title himself against the occupant."

43. This was also a case where the NA Permission under the provisions of Section 65 of the Code was in issue. The above principles of law therefore, squarely apply to the present case.

44. Considering the provisions of Section 65 of the Code as well as the above pronouncement of law by the Supreme Court, this Court cannot but arrive at the inevitable conclusion that the denial of NA Permission to the writ applicants under the garb of a purportedly defective title over the land in question amounts to a transgression of the limits of jurisdiction vested in the second respondent under the Code. The impugned order is, therefore, one without jurisdiction. For such reason also the plea of alternative remedy should fail."

9. In view thereof, the impugned orders passed by the competent authority are required to be quashed and set aside and the same are quashed and set aside. Further,

while exercising the powers under Section 65 of the Code, the respondent authority can summarily inquire whether the applicant is in lawful possession of the land in question and undertaking agricultural activity while admittedly the impugned order is passed in excess of jurisdiction.

10. In view thereof, the same is quashed and set aside. If the petitioner were to make a fresh application, the respondent No. 2 – Collector to decide the petitioner's application in accordance with Section 65 of the Code and the ratio laid down by the Hon'ble Court in the case of ***Tusharbai Harjibhai Ghelani and Anr. v/s. State of Gujarat and Ors.*** reported in ***2019 (4) GLR 2578*** and duly confirmed in Letters Patent Appeal No. 1181 of 2025 and allied matters with CA (for condonation of delay) No. 4716 of 2025 within a statutory time period.

11. With the aforesaid directions, the present petition is allowed to the aforesaid extent. Rule is made absolute to the aforesaid extent.

(VAIBHAVI D. NANAVATI,J)

SHAHANAZ

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SYED SHAHANAZ(HC02353), ENGLISH STENO GRADE-II, at High Court of Gujarat on 08/05/2026 18:27:36