

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 1755 of 2025**

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HARASIDDH BUILDERS

Versus

SPECIAL SECRETARY REVENUE DEPARTMENT (APPEALS) & ORS.

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Appearance:

VIRAL K SHAH(5210) for the Petitioner(s) No. 1

A A DAUDIVHORA(7516) for the Respondent(s) No. 4

MR JAYNEEL PARIKH ASSTT. GOVERNMENT PLEADER for the
Respondent(s) No. 1,2,3

NOTICE SERVED BY DS for the Respondent(s) No. 5

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CORAM: HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 07/05/2025

ORAL ORDER

1. Learned advocate Mr. Viral Shah does not press prayers A and B of the petition.
2. Heard learned advocate Mr. Viral K. Shah for the petitioner, learned AGP Mr. Jayneel Parikh for the respondent No.1 State and learned advocate Mr. A.A. Daudivhora for the respondent No.4.
3. By way of this petition, the petitioner challenges an order dated 05.09.2021 passed by the Collector, Ahmedabad, whereby application preferred by the petitioner for grant of NA permission, has been rejected inter alia on the count that a Revision Application is pending before the SSRD and there is an aspect of stamp duty on the transaction in question.
4. Considering the submissions made by learned advocates for the respective parties and having perused the documents on record, in so far as the deficit stamp duty part is concerned, attention of this Court is drawn to an order dated 11.12.2024 by the Deputy Collector, Stamp Duty Valuation, Ahmedabad, wherein the authority concerned has

specifically stated that there is no aspect of any pending stamp duty as regards the transaction by which the petitioner had purchased the land in question.

5. In so far as the aspect of pendency of a Revision Application before the SSRD is concerned, while the learned advocate Mr. Shah would attempt to submit that the SSRD has rejected the application for interim relief, thus the prima facie case of private respondent has not been accepted, yet to this Court, it would appear that even the said aspect was not required to be looked into by the respondent authorities. To this Court it would appear that the law with regard to grant of NA permission has been clarified by learned Coordinate Bench in the case of Tusharbhai Harjibhai Ghelani Vs. State of Gujarat reported in 2019 (4) GLR 2578 and whereas the law as it stands today is that the proceedings under Section 65 are not adversarial in nature and whereas except for any prohibitory order passed by any competent Court, in the proceedings preferred by a person claiming right over the land in question, the Revenue Authority, more particularly the Collector is not precluded from considering the application for grant of NA permission. Furthermore, the learned Coordinate Bench has clearly observed that as far as grant of NA permission is concerned, two aspects would be required to be verified i.e. whether the petitioner occupying land is concerned and whereas in so far as the said aspect is concerned as per the law laid down by the learned Coordinate Bench, the revenue records would be proper proof of the said aspect.

6. In the considered opinion of this Court, in view of the law laid down by the learned Coordinate Bench in the decision referred to hereinabove, the Collector having relied upon pending Revision Application where even an application for interim relief had been rejected, could not have been treated to be a valid ground for rejection of application for NA permission.

7. Having regard to the above observations, to this Court, the following directions would meet with the ends of justice:

- (a) The orders dated 05.09.2024 and 30.11.2024 passed by the Collector, Ahmedabad, are hereby quashed and set aside.

- (b) The Collector, Ahmedabad, is directed to reconsider the application preferred by the petitioner dated 30.09.2024 for grant of NA permission, more particularly having regard to law laid down by this Court in the case of Tushar Gelani (Supra).
- (c) The consideration shall be done by the Collector within a period of 90 days from the date of receipt of this order.

8. With this observation and direction, present petition stands disposed of as allowed.

It is further clarified that this Court has not observed anything on prayers A and B, which have not been pressed for by the learned advocate for the petitioner.

Y.N. VYAS

(NIKHIL S. KARIEL,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: YAGNESH NARENDRABHAI VYAS(HC00207), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 08/05/2025 15:56:30