

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2540 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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BHUPENDRABHAI SHANTILAL PATEL & ORS.

Versus

THE COLLECTOR

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Appearance:

MR MOHMEDSAIF HAKIM(5394) with MR MTM HAKIM for the
Petitioner(s) No. 1,2,3,4,5

MR DHAVAL TRIVEDI, AGP for the Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**Date : 28/04/2026****ORAL JUDGMENT**

1. Rule returnable forthwith. Mr. Dhaval Trivedi, learned AGP waives the service of notice of rule for and on behalf of the respondent – State authorities.

2. Heard Mr. MTM Hakim, learned advocate for Mr. Mohmedsaif Hakim, learned advocate appearing for the petitioners and Mr. Dhaval Trivedi, learned AGP appearing for the respondent – State authorities.

3. By way of the present petition, the petitioner herein prays for

the following reliefs:

“10. In view of the aforementioned premises, the Petitioners seek issuance of writ of mandamus and/or certiorari and/or any other writ, order or direction in the nature of mandamus and/or certiorari and/or any other appropriate writ, direction may be issued and thereby:-

A. THIS HON'BLE COURT MAY BE PLEASED TO quash and set aside the impugned order dated 20/12/2025 (Annexure-A) passed by the Respondent-Collector, Vadodara passed in application No. 61902202507990 (Annexure-S) for seeking NA permission qua agricultural land totally admeasuring 00-46-54, Block No.11 of village: Chikodra, Taluka: Vadodara, District: Vadodara.

B. THIS HON'BLE COURT MAY BE PLEASED TO order and direct the respondent to reconsider the petitioners application for grant the NA permission qua agricultural land totally admeasuring 00-46-54, Block No.11 of village: Chikodra, Taluka: Vadodara, District: Vadodara.

C. Pending admission, hearing, and final disposal of the present Petition, this HON'BLE COURT MAY BE PLEASED TO order and direct the respondent to reconsider the petitioners' application for grant the NA permission qua agricultural land totally admeasuring 00-46-54, Block No.11 of village: Chikodra, Taluka: Vadodara, District: Vadodara.

D. THIS HON'BLE COURT MAY BE PLEASED TO grant such other and further relief/s as may be deemed, fit, just and proper in the

facts and circumstances of the case, and in the interest of justice and equity;

E. THIS HON'BLE COURT MAY BE PLEASED TO award the costs of the present Petition throughout."

4. The petitioner challenges the impugned order dated 20.12.2025 passed by the Collector, Vadodara in application seeking Non-Agricultural (NA) use permission which was consigned to file, mainly, on the ground that against rejection of the earlier application seeking NA permission, the petitioner herein ought to have preferred appeal challenging the said order which was not preferred.

5. Briefly stated that the land bearing Survey Nos. 9, 218, 440, 443 and 438 of Village: Chikodra, Taluka: Vadodara, District: Vadodara (for short, "the said land") were originally owned by Shri Varubhai and the grandfather and the great grandfather of the petitioners i.e. Shri Ashabhai Hathibhai Patel, was the tenant, in the said land since 1955. Subsequently, the said lands were sold to him under the tenancy laws and he became the owner of the said lands in 1966 for which mutation Entry No. 630 dated 16.05.1966 came to be mutated in the revenue records.

5.1. The present petition pertains to land Survey No. 9, Block No. 11 of village Chikhodra, Taluka: Vadodara, District: Vadodara, admeasuring 00-46-54 sq. mtrs. After the death of his first wife, Shri

Ashabhai Hathibhai Patel married one Smt Maniben, who had 2 children from her earlier wedlock viz. Shri Motibhai and Smt Savitaben and these children of Smt Maniben also came to reside with Shri Ashabhai Hathibhai Patel. Shri Ashabhai Hathibhai Patel, executed a registered will dated 17.07.1973, in favour these children and bequeathed them lands Survey Nos. 327 and 347 of his ownership and Survey Nos. 9, 218, 327, 440, 443 and 448, being Block No.11, 169, 243 and 331 got under Tenancy laws, of Village: Chikodra, Taluka: Vadodara, District: Vadodara. Thereafter, on the devolution of the said lands, as per the registered will dated 17.07.1973, Entry No. 998, dated 19.05.1981 was also entered in the revenue record. Thereafter, the Mamlatdar and ALT, Vadodara registered Tenancy/Case/489/89 for alleged breach of restrictions under section 43 of the Tenancy Act and declared the said lands as Government Lands. Since, the said lands of restricted tenure, were being cultivated by someone else.

5.2. Thereafter, inheritors by Will, claimed the lands to be regranted, as they were cultivating it. Thereby, the Mamlatdar and ALT, Vadodara registered Ganot/Case/No.2(6)/Bhang/84C/44/95 and passed order dated 29.07.1995 wherein it was held that the lands are being cultivated by the original tenants i.e. the inheritors by Will, who have received the lands by way of registered will and as Section 2(6) of the Tenancy Act had been abolished, the said lands was regranted

and reinstated in the name inheritors by Will ie. Shri Motibhai and Smt Savitaben. Thereafter on 08.11.2019, Smt. Savitaben expired and Shri Motibhai had earlier expired without leaving any heirs, Smt. Savitaben remained the sole owner and occupier. Therefore, upon the death of Smt. Savitaben, her children, present petitioners, inherited the said lands. Thereby, Entry No. 2584 dated 06.12.2019 came to be posted in the revenue record. Thereafter by order dated 20.03.2001 in Ganot/Case/No.44/95, Mamlatdar and ALT, Vadodara corrected the earlier order dated 29.09.1995 considering that the Section 2(6) of Tenancy Act has a retrospective effect, which was incorrect. The said order dated 20.03.2001, was taken in revision under Section 76(A) of the Tenancy Act by the Deputy Collector (Lands Reforms), Vadodara in Tenancy/D/Revi/Case No. 44/95 wherein by order dated 25.06.2002, the Deputy Collector confirmed the order of the Mamlatdar and ALT dated 20.03.2001 and notice under Section 76(A) of the Tenancy Act was withdrawn, however, since the original order dated 29.09.1995 was not taken in revision and as order dated 20.03.2001 was passed and both orders had resulted in mutation entries, the Mamlatdar and ALT, Vadodara initiated proceedings under the Tenancy Act being Ganot/Case No.25/2004 and took order dated 29.09.1995 in revision. In the said proceedings the Mamlatdar and ALT, Vadodara dropped the proceedings under 84C of the Tenancy Act by order dated 27.12.2021. Thereafter, the said order dated 27.12.2021 was taken in

revision under section 76(A) of the Tenancy Act by the Deputy Collector (Lands Reforms), Vadodara being Tenancy/Revi/Case No.33/2022 wherein by order dated 29.03.2023, the Deputy Collector (Lands Reforms) remanded the matter to the Mamlatdar and ALT.

5.3. Thereafter, in view of the aforesaid order, again the proceedings under 84(C) were initiated for breach of Section 43 of the Tenancy Act by the Mamlatdar and ALT, Vadodara being Remand Ganot Case No.108/2023. Ultimately, the said proceedings were also dropped by order dated 10.08.2023. The said was taken in revision under section 76(A) of the Tenancy Act by the Deputy Collector (Land Reforms), Vadodara being Tenancy/Revi/Case No.05/2024 wherein by order dated 02.02.2024, the Deputy Collector (Land Reforms) dropped the proceedings under Section 76(A).

5.4. The petitioners preferred applications dated 28.08.2021 and 22.01.2022, but both the said applications of the petitioners were not considered and were closed by way of communications dated 09.10.2021 and 11.03.2022 respectively by the Collector, Vadodara on the ground that the Tenancy proceedings of Tenancy Case No.25/2004 were pending. Thereafter, the petitioners again preferred application dated 16.12.2023 and 02.03.2024 for N.A. permissions, which were once again closed by communication dated 06.02.2024 and 16.04.2024 by the Collector, Vadodara on the ground that the

Tenancy/Revi/Case No.05/2024 is pending. The petitioners again preferred fourth application dated 30.04.2024 for N.A. permission and more particularly, since the Tenancy/Revi/Case No.05/2024 was decided in favour of the petitioners on 02.02.2024. However, the said application of the petitioners was again erroneously rejected by order dated 24.06.2024 grossly in breach and violation of principles of natural justice, as no hearing was conducted, in furtherance to the said NA application.

5.5. Being aggrieved by the same the petitioners preferred Special Civil Application No. 12287 of 2024 before this Hon'ble Court on 12.08.2024. While the said proceedings were pending before this Hon'ble Court, the respondent – State preferred Revision Application No. VDD/305/2024 before the Gujarat Revenue Tribunal (G.R.T.) and ultimately the said proceedings before the G.R.T. culminated vide order dated 04.09.2025. The G.R.T. rejected the revision and the closure and withdrawal of Section 84C of the Tenancy Act attained finality in favour of the petitioners and against the State. Thereafter, by order dated 03.10.2025 this Hon'ble Court granted permission to withdraw the petition to file a fresh application for NA permission as the revision was rejected by the G.R.T. Subsequently, the petitioners again applied for NA permission on the basis of the fresh cause of action, particularly, the rejection of revision of the respondent by the G.R.T. vide application dated 17.10.2025, since, the proceedings

under Section 84C of the tenancy act came to be closed and terminated in favour of the petitioners. The said application seeking NA permission is rejected vide order dated 20.12.2025 on the ground that against the earlier order rejecting the NA permission relief in appeal is not obtained.

6. Mr. Hakim, learned advocate relies on the orders passed by the respondent no. 2 dated 16.04.2024 (page no. 78) which was consigned to file and order dated 24.06.2024 wherein the application for payment of premium under Section 43 of the Gujarat Tenancy and Agricultural Lands Act, 1948, (for short, “the Act”) and grant for NA use permission was rejected mainly on the ground that by Entry No. 1252, the land was vested with the State and by Registration No. 1290, it was restored back which was subject matter of challenge before the Tribunal by the State.

6.1. Mr. Hakim, learned advocate submits the respondent – State challenged the same by way of a revision application REVISION/VDD/305 of 2024 wherein the said revision application filed by the State is dismissed on the ground of delay by order dated 04.09.2025. In view thereof, the petitioner preferred a fresh application seeking NA permission, as permitted by order dated 03.10.2025 passed in Special Civil Application No. 12287 of 2024 and allied matters, however, the same is also not considered on the ground that the earlier application

stood rejected.

7. Mr. Trivedi, learned AGP submits that the order dated 24.06.2024 passed by the Collector rejects the petitioners application for grant of NA permission; however, the aforesaid facts as submitted by the Mr. Hakim, learned advocate that the revision application preferred by the State stands rejected by order dated 04.09.2025 cannot be disputed.

8. Having heard learned advocates appearing for the respective parties, the aforesaid facts are not in dispute wherein the petitioners application under Section 43 of the Act read with NA permission stood rejected on the ground that the petitioner have not preferred appeal against earlier order dated 24.06.2024. The said order would not come in way of the petitioner since the main issue raised in the said order dated 24.06.2024 has been resolved by order dated 04.09.2025 passed by the Gujarat Revenue Tribunal (G.R.T.) in revision application No. VDD/305/2024 whereby the revision preferred by the State was rejected.

9. In view of the order dated 04.09.2025 passed by the G.R.T. in revision application bearing No. REVISION/VDD/305 of 2024, wherein the revision preferred by the State was rejected the petitioner thought it fit to withdraw the petitions being Special Civil Application No. 12287 of 2024 and allied matters and in view thereof, this Court

by order dated 03.10.2025 permitted the petitioners herein to approach the respondent authority for grant of NA permission afresh in light of the aforesaid order passed by the G.R.T.

10. For the reasons as referred to herein-above, the impugned order passed by the respondent authority dated 20.12.2025 is quashed and set aside. If the petitioner were to prefer a fresh application, the same be decided in accordance with Section 65 of the Code within the statutory period.

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

(VAIBHAVI D. NANAVATI,J)

KUMKUM

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: KUMKUM MAHENDRA SHARMA(HC02349), ENGLISH STENO GRADE-II, at High Court of Gujarat on 08/05/2026 18:56:13