

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2717 of 2025**

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MEDATIYA HITENDRASINH PRABHUSINH

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR MANISH S SHAH(5859) for the Petitioner(s) No. 1

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

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 06/03/2025****ORAL ORDER**

1. Heard learned Advocate Mr. Manish Shah on behalf of the petitioner and learned Assistant Government Pleader Mr. Jayneel Parikh on behalf of respondent- State.

2. By way of this petition, the petitioner challenges order passed by the Deputy Collector, Himmatnagar dated 25.06.2024 in Revision Case No. 10 of 2023, more particularly whereby the Deputy Collector has set aside order passed by the Mamlatdar, Himmatnagar under the Mamlatdar Courts Act recognizing the existence of a pathway for the petitioner to go his agriculture land through the agriculture land of the present private respondents no. 3 to 5.

3. Considering the submissions made by learned Advocate Mr. Shah and having perused the documents on record including the impugned order it would prima facie appear to this Court that while the Mamlatdar,

Himmatnagar had passed an order in favour of the present petitioner under the Mamlatdar Courts Act more particularly based upon a site inspection report prepared in presence of the Mamlatdar himself, whereas, the Deputy Collector has set aside the order of the Mamlatdar on basis of a site inspection carried out by the Deputy Collector himself.

4. Having regard to such a position, more particularly the varying site inspection reports, at the first instance let **notice be issued to respondents no. 1 to 5** returnable on **27.03.2025**.

5. By the returnable date, the Collector, Sabarkantha shall have a site inspection report prepared by a different Deputy Collector i.e other than the Deputy Collector who has passed the order dated 25.06.2024. The site inspection report shall specifically show the disputed pathway as well as availability of any alternative pathway to the present petitioner as contended by the private respondents no. 3 to 5 before the Mamlatdar. The site inspection report shall if require also contain photographs of the disputed pathway as well as the pathway as per the contention of the private respondents as noted hereinabove for better appreciation. Direct service is permitted.

6. Learned AGP shall communicate a copy of this order to the Collector, Sabarkantha for appropriate compliance.

(NIKHIL S. KARIEL,J)

NIRU

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: NIRU ROSHAN SHAH(HC00211), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 07/03/2025 10:47:57