

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 5842 of 2025**

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CHATURBHAI AALJIBHAI ZALA

Versus

KAMALABEN WD/O NALINKANT PARSOTAMBHAI & ORS.

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Appearance:

MR SJ MAKWANA(6053) for the Petitioner(s) No. 1

MR JAY BAROT AGP for the Respondent(s) No. 12,13,14

MR NACHIKET A DAVE(5308) for the Respondent(s) No. 5

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CORAM:HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE**Date : 02/09/2025****ORAL ORDER**

1. Rule, returnable forthwith. The learned counsel Mr. Nachiket A. Dave waives service of rule on behalf of the respondent No.5, whereas the learned AGP Mr. Jay Barot waives service of rule on behalf of the respondent Nos.12, 13 and 14.

2. With the consent of the learned counsels for the parties, the matter is taken up for final disposal.

3. The present Special Civil Application challenges the order dated 30.12.2024 passed by the learned Secretary (Appeals), Revenue Department in the Revision Application No.57 of 2022, whereby the application of the petitioner for mutation of his name on the basis of the registered sale deed dated 12.10.2009 has been rejected on the ground that the same is based on the forged power of attorney.

4. The brief facts leading to filing of the present petition are as under :-

4.1 The subject land bearing survey No.475 paiki (old survey No.1167) situated at Village Jodhpur, Taluka Vejalpur, District Ahmedabad was jointly owned by [1] Khodabhai Parshottambhai Patel (Khata No.748, 864 sq. mtrs.) [2] Prabhaben Wd/o Ambelal (Khata No.753, 861 sq. mtrs.), [3] Nalinkant Parshottambhai Patel (Khata No.754, 861 sq. mtrs.) [4] Gordhanbhai Parshottambhai Patel (Khata No.755, 861 sq. mtrs.) and [5] Sulochanaben Ravjibhai Patel (Khata No.756, 861 sq. mtrs.). That, said Khodabhai Parshottambhai Patel expired on 22.03.1997. The forged power of attorney of the deceased Khodabhai came to be executed by one Pravinbhai Dahyabhai Parmar on 14.08.2007 and on the basis of the said forged power of attorney, he executed a sale deed in favour of one Prithvisinh Pratapsinh Chauhan being registered sale deed No.12574 of 2008 dated 07.10.2008. That thereafter, the said power of attorney holder Pravinbhai Dahyabhai Parmar re-sold the subject land to the present petitioner vide registered sale deed No.10225 of 2009 dated 12.10.2009. Pursuant to the said transaction, the mutation entry No.1577 dated 16.10.2009 came to be posted in the revenue record, which was objected by the respondent No.5 herein, who is joint owner of the subject land. Vide order dated 23.04.2010, the City Mamlatdar, Ahmedabad upheld the objection of the respondent No.5 and rejected the mutation entry No.1577 holding that the same was based on forged document. Aggrieved, the petitioner preferred the Appeal No.103/2016 before the Deputy Collector, Dascroi Prant, who upheld the order of the City Mamlatdar. Aggrieved, the petitioner challenged the same before

the learned Collector by filing the Revision Application No.859 of 2016, which also came to be dismissed vide order dated 22.12.2021 upholding the orders passed by the City Mamlatdar as well as Deputy Collector, Dascroi Prant. Thereafter, the petitioner filed the Revision Petition No.57 of 2022 before the learned Secretary (Appeals), Revenue Department, who has upheld the order rejecting the mutation entry No.1577 in favour of the petitioner.

5. The learned counsel Mr. S. J. Makwana appearing for the petitioner submits that the petitioner is the holder of the registered sale deed in his favour for due value and consideration. He submits that being a registered document, it was imperative for the revenue authorities to mutate the entry in his favour. He submits that on the basis of the said sale deed, the mutation entry No.1577 came to be recorded, however the same was not certified in view of the objection raised by the respondent No.5. The learned counsel submits that it was mandatory before the revenue authorities to effect the mutation entry in favour of the petitioner in the revenue record since the sale deed in his favour was duly registered and there is no any suit pending for setting aside of the said sale deed. He, therefore, submits that the revenue authorities have erred in rejecting the mutation entry No.1577 in favour of the petitioner.

6. Per contra, the learned counsel Mr. Nachiket A. Dave appearing for the respondent No.5 submits that the co-owner Khodabhai Parshottambhai Patel, who is uncle of the respondent No.5, had expired on 22.03.1997, which fact is not disputed. He submits that the forged power of attorney came to be executed by Pravinbhai Dahyabhai Parmar on 14.08.2007, whereby it is alleged that the power has been given to Pravinbhai Dahyabhai Parmar to

deal with the land in question and on the basis of the said power of attorney, Pravinbhai sold the land to one Prithvisinh Pratapsinh Chauhan by executing the sale deed No.12574 of 2008 dated 07.10.2008. The learned counsel submits that in the said sale deed, the present petitioner signed as witness to the said transaction. That thereafter, Pravinbhai Dahyabhai Parmar as power of attorney of Khodabhai Parshottambhai Patel and the alleged purchaser Prithvisinh Pratapsinh Chauhan as confirming party sold the land to the petitioner and accordingly, the registered sale deed No.10225 of 2009 dated 12.10.2009 came to be executed in favour of the petitioner. The learned counsel submits that in respect of these forged transactions, the petitioner as well as Pravinbhai Dahyabhai Parmar are facing the criminal prosecution. The learned counsel submits that the revenue authorities have taken into consideration these facts in totality and came to the conclusion that the registered sale deed in favour of the petitioner is made on the basis of the forged document, to which, the present petitioner is also a party and that the petitioner has also participated in the said fraud. He, therefore, submits that the mutation entry No.1577 in favour of the petitioner has been rightly rejected by the revenue authorities. He, therefore, submits that the present Special Civil Application be dismissed.

7. Heard the learned counsels for the parties, considered the arguments and perused the documents on record.

8. It is not in dispute that the co-owner Khodabhai Parshottambhai Patel expired on 22.03.1997. Admittedly, the power of attorney, on the basis of which, the registered sale deed has been executed in favour of the petitioner, had been executed on

14.08.2007, i. e. after more than 10 years after the death of Khodabhai Parshottambhai Patel. In the first transaction of sale in respect of the subject land, the petitioner was a witness to the said sale deed. Thereafter, the petitioner purchased the subject land from the first purchaser on the basis of the said forged power of attorney. The revenue authorities have considered that the said power of attorney is a forged document as the same has been prepared 10 years after the death of co-owner Khodabhai and also that the criminal proceedings are pending against the petitioner and the power of attorney holder in respect of the said forgery. No infirmity could be pointed out in the findings rendered by the revenue authorities below. No interference is called for. The Special Civil Application is devoid of merits and the same is dismissed accordingly.

Rule is discharged.

No order as to costs.

(ANIRUDDHA P. MAYEE, J.)

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CHANDRASHEKHAR MAHESHKUMAR KOSHTI(HC01066), Principal Pvt. Secretary, at High Court of Gujarat on 03/09/2025 16:11:39