

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 597 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 2100 of 2025

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/LETTERS PATENT APPEAL NO. 597 of 2025

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MEKADDADA AKHADA MAHANT AND TRUSTEE THROUGH MAHANT
MURJI RAJA GURU KANJI RAJA

Versus

MAMLATDAR AND KRUSHI PANCH BHUJ

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Appearance:

MR CHIRAGKUMAR M DESHANI(11141) for the Appellant(s) No. 1

MR MR VYAS(995) for the Appellant(s) No. 1

MS.HETAL PATEL, ASST.GOVERNMENT PLEADER for the
Respondent(s) No. 1

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CORAM:**HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE**
SUNITA AGARWAL

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 05/05/2025

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)

1) Heard the learned counsel for the appellant and perused the record.

2) The present Letters Patent Appeal is directed against the judgment and order dated 19.02.2025 passed by the learned Single Judge in dismissing the writ petition as misconceived noticing that no details, whatsoever, has been given by the petitioner about any proceeding having been initiated against the Trust under which, the Mamlatdar and ALT is trying to take possession of the property belonging to the Trust.

3) It is sought to be submitted by the learned counsel for the petitioner that the Mamlatdar and ALT is visiting the property in question after every three days and is threatening the petitioner that he would take possession of the property in question. The statement made at the bar is not supported by any averments made in the original writ petition and as such cannot be appreciated.

4) We may record that in the writ petition, the petitioner claims to be the Mahant and Trustee of the Trust known as Makaddada Akhada Trust, Dhrung which is a registered trust under the Bombay Public Trust Act and the rules made thereunder.

5) Only averment made in the writ petition in one paragraph, i.e. paragraph No.2.1 is that the respondent Mamlatdar is trying to take possession of the Trust and give others for the reasons best known to him by using powers granted under the Gujarat Land Revenue Code and Rules thereby abusing the power knowing fully well that the possession of the property more than 60 years cannot be taken, assuming that the person may be in illegal possession as per the Gujarat High Court and Supreme Court judgments and thereby, abuse the power granted under the Gujarat Land Revenue Code.

6) Taking note of the above averments made in the writ petition, it is clear that the petitioner has not given any detail of the notice or any proceeding having been undertaken by the Mamlatdar and ALT in exercise of the power granted under the Gujarat Land Revenue Code and the Rules made thereunder. The question of misuse of power by the said officer, therefore, cannot be examined.

7) Further compilation given by the learned counsel for the appellant during the course of argument on various legal principles of separation of power, Doctrine of Public Trust and Public Accountability, right of the accused under the Constitution, principles of criminal law, right to shelter and permissibility of the collective punishment, cannot be looked into.

8) In absence of correct and complete details with respect to the cause of action for filing the writ petition, no infirmity can be attached to the order passed by the learned Single Judge.

9) The appeal stands dismissed being misconceived. Consequently, the connected Civil Application also stands disposed of.

10) However, we may note that the learned Single Judge has clarified that the petitioner / appellant is at liberty to initiate appropriate proceedings in law.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

SAHIL S. RANGER

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: SAHIL SAMIULLA RANGER(HC01898), PRIVATE SECRETARY, at High Court of Gujarat on 06/05/2025 10:39:45