

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 4107 of 2026**

=====

NAVINKUMAR SHADILAL SHARMA OJHA

Versus

STATE OF GUJARAT & ORS.

=====

Appearance:

MR. BAKUL S PANCHAL(3676) for the Petitioner(s) No. 1

MS MANSI S PANCHAL(12033) for the Petitioner(s) No. 1

GOVERNMENT PLEADER for the Respondent(s) No. 1,2,3,4

=====

CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**Date : 07/04/2026****ORAL ORDER**

1. Heard Mr. Bakul S. Panchal, the learned advocate appearing for the petitioner and Ms. Devanshiba Rana, the learned AGP appearing for the respondent – State.

2. By way of present petition, the petitioner herein has challenged the impugned communication/Order No.CB/Land Grabbing/FIR/Reg.No.59/24/Vashi/325-327/2025 dated 25.2.2026 issued by the office of the Collector, Valsad whereby copy is sent to the petitioner herein. The communication is addressed to the Superintendent of Police, wherein according to the Committee the case is made out under the Land Grabbing Act upon the

application made by the respondent No.5 on the ground that as per the DILR's report the petitioner herein is in unauthorized occupation of the 'ingress and egress' of respondent No.5's resident upon undertaking the requisite measurement and upon granting hearing to the respective parties and upon perusal of the measurement sheet and lay-out plan.

3. The case of the petitioner is referred to filing of the FIR as per Rule 5(9)(10) of the Gujarat Land Grabbing (Prohibition) Rules 2020, thereafter a report is directed to be placed before the Committee.

4. In the opinion of this Court, the said order passed by the respondent No.2 – Collector, Valsad is for and on behalf of the Committee which can be challenged before the Special Court under Section 9 of the Act wherein the Special Court can take into consideration the factual aspects and also call for fresh report from the Committee.

5. The aforesaid issue is no longer res integra as held in order dated 25.1.2023 passed in the Special Civil Application No.18 of 2023, paragraphs 11 and 12 read thus :-

“11. This Court, while exercising powers under Article 226 of the Constitution of India, cannot examine the report of the Committee and hold that the respondent nos.5 and 6 are the land grabbers. If such an exercise is undertaken, the High Court by entertaining the writ petition, would be in fact exercising its appellate powers under Section 12A of the Act directly by diverting the procedure prescribed under Section 9 of the Act. On an application made by the petitioner before the Special Court alleging land grabbing by the respondent nos.5 and 6, the Special Court can still call for the report from the Committee if it “may” deem fit as per Rule 7 of the Rules and it can also without calling for the fresh report from the Committee can examine the current report and initiate the proceedings on an application or suo motu and further undertake the procedure prescribed in sub-sections of Section 9 of the Act. The Special Court is not confined by the findings of the Committee and while examining the report of the Committee, it can initiate further proceedings in an offence of land grabbing and pass necessary orders, as it may deem fit by undertaking the necessary procedure as prescribed under Section 9 of the Act. Thus, the submission of the petitioner of filing the writ petition directly challenging the decision of Committee in absence of any provision of appeal in the Act does not merit acceptance. Looking to the scheme of the Act and Rules, no provision stipulating the filing of an appeal against the decision of Committee is required; since the Special Court is armed with enough provisions to examine the offence of land grabbing independent of findings of the Committee. The petitioner has only to file an application alleging offence of land grabbing before the Special Court. The Special Court does not become functus officio only because the Committee has taken

a decision. The Committee formed under the Rules cannot be placed at higher pedestal than the Special Court.

12. Thus, the petitioner has an alternative remedy under Section 9 of the Act to approach the Special Court by filing appropriate application of land grabbing against the respondent nos.5 and 6 even after the Committee has tendered its report. The Special Court can always, after perusing the application made by the petitioner, can initiate the procedure as prescribed under Section 9 of the Act and if it desires call for further report of the Committee. This Court by entertaining this writ petition cannot adopt the procedure, as prescribed under Section 9 of the Act merely because the Committee has rendered a report under Rule 7 of the Rules. The ultimate object of the petitioner is to evict the respondent no.5 and 6 for the alleged offence of land grabbing, which can only be examined by the Special Court on the basis of the evidence adduced before it.”

6. In view of the aforesaid, the present petition stands disposed of reserving liberty in favour of the petitioner to avail statutory remedy in accordance with law.

7. If the petitioner were to approach the Special Court, the competent authority may not be influenced by the observations made by this Court to arrive at the aforesaid conclusion.

(VAIBHAVI D. NANAVATI,J)

K.K. SAIYED