

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 5311 of 2018**

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KALYANSINH MAKANSINH GUNDIYA
Versus
STATE OF GUJARAT

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Appearance:

for the Petitioner(s) No. 4.1

MR DIPEN DESAI(2481) for the Petitioner(s) No. 1,2,3,4,4.2,5,5.1,5.2,5.3,6,7

NOTICE ISSUED BY PUBLICATION for the Respondent(s) No. 5

NOTICE SERVED BY DS for the Respondent(s) No. 1,2,3,4

CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI**Date : 09/01/2024****ORAL ORDER**

It is submitted by learned advocate Mr. Dipen Desai that respondent no, 5 is the contesting respondent and despite service of notice by way of publication, respondent no. 5 has chosen not to appear before this Court.

2. Learned advocate Mr. Desai states that a part of the land belongs to the father of the petitioner was sold to a private industry. However, in the revenue record it was shown as if entire land was sold to the concerned industry and therefore, upon filing an appeal the aforesaid was corrected by making suitable changes in the revenue record, the same was done by vide an order dated

13.1.2014, by Mamlatdar, Dahod though respondent no, 5 does not have any locus according to learned advocate Mr. Desai as land of the petitioner and land of respondent no. 2 are absolutely different land though adjacent to each other, respondent no. 5 carried the aforesaid order in appeal and on the ground that by making such correction in the revenue record the petitioner is trying to grab his land. The aforesaid version of respondent no. 5 was believed by Collector and an order passed by Deputy Collector and an order passed by the Mamlatdar was set aside and despite the petitioner's challenge to the aforesaid order passed by the Deputy Collector the petitioner failed upto Special Secretary, hence, this petition is preferred.

3. Mr. Desai points out that despite service of notice the respondent no 5 has not appeared before this Court. He states that the petition is of the year 2018 and therefore the matter may be proceeded even in absence of respondent no. 5 who is already served. Today respondent no. 5 is not before this Court despite service and though the Court was inclined to take up the matter the matter could not be heard due to absence of respondent no. 5 either in person or through his advocate and therefore, upon hearing Mr. Desai the petitioner prima facie finds that the respondent no. 5 has challenged the order passed by the Mamlatdar under a

misconception about the land in question, therefore let there be interim relief in terms of para 6 (B) till next date of hearing the matter could have been heard finally had respondent no, 5 have been present before this Court and therefore, today the matter is heard only for interim relief in absence of respondent no. 5 and is adjourned to 6.2.2024.

3. Copy of this order be served upon respondent no. 5 by the petitioner before the next date of hearing. If the respondent no. 5 chooses not to appear even on next date of hearing, this Court shall be constrained to hear and decide the matter on merits finally.

4. Direct Service is permitted.

MARY VADAKKAN

(NIRZAR S. DESAI,J)