

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7068 of 2025**

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SARDARILAL SOMNATH MANAN

Versus

THE COMPETENT AUTHORITY & ORS.

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Appearance:

MR ASHOK N PARMAR(2431) for the Petitioner(s) No. 1

NANAVATI & CO.(7105) for the Respondent(s) No. 1,2

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CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT**Date : 10/06/2025****ORAL ORDER**

1. Heard learned Advocate Mr.Ashok N. Parmar for the petitioner.
2. At the outset, learned Advocate Mr.Parmar requests this Court to allow incorporation of the legal ground which was inadvertently not incorporated in the writ application. So, he has tendered a draft amendment, which is taken on record. Leave to amend is hereby granted. The amendment shall be carried out forthwith.
3. Learned Advocate Mr.Parmar would submit that as per Section-3(H)(4) of the National Highways Act, the dispute was

required to be decided/settled by the Principal Civil Court, which is District Court and not the Civil Judge (Senior Division) as the case may be.

4. Learned Advocate Mr.Parmar would submit that this legal aspect has been settled by the Hon'ble Apex Court of India in the case of "***Vinod Kumar and Ors. V/s. District Magistrate Mau and Ors. reported in 2023 AIR (SC) 3337***".

5. Learned Advocate Mr.Parmar would submit that the impugned order passed by the 2nd Additional Senior Civil Judge, Gandhinagar in CMA No.127 of 2017 is without jurisdiction, thereby requires to be quashed and set-aside.

6. Learned Advocate Mr.Parmar would fairly submit that such legal contention was not pressed into service by petitioner before the Trial Court concerned, but when it lacks inherent jurisdiction to decide the lis between the parties and as such, it was incumbent upon respondent Nos.1 and 2 herein i.e. National Highways Authority of India, to submit an application under Section-3(H)(4) of the National Highways Act, 1956, before the Principal Civil Court i.e. District Court, Gandhinagar, instead of that, such application was filed before the Principal Senior Civil Judge at Gandhinagar.

7. Considering the legal submissions made by the learned

Advocate Mr.Parmar and after examining such legal contention raised, it appears that respondent Nos.1 and 2 herein have submitted impugned application before the Principal Civil Judge, Gandhinagar, which was filed under Section-3(H)(4) of the National Highways Act, which ought to have been filed before the Principal Civil Court i.e. District Court, Gandhinagar.

8. As such, the issue raised by the learned Advocate Mr.Parmar is no longer *res integra*, having already been clarified and decided by the Hon'ble Apex Court in the case of **Vinod Kumar (supra)**, wherein the Hon'ble Supreme Court of India, in paragraph-33, held as under:

“33. We are of the view that when it comes to resolving the dispute relating to apportionment of the amount determined towards compensation, it is only the Principal Civil Court of original jurisdiction which can do so. Principal Civil Court means the Court of the District Judge.”

(Emphasis supplied)

9. It is true that legal contention which is now raised before this Court by the petitioner was never pressed into service before the Trial Court, but the fact remains that if impugned order was passed by the Trial Court without jurisdiction, lacking inherent jurisdiction to decide such dispute between the parties, the order is nullity and such legal contention can be raised and examined before any Court, as it goes to the root of the matter.

10. Considering the aforesaid aspects of the matter and the issue

raised in the present writ application, issue notice for final disposal, returnable on 22nd July, 2025. Ad-interim relief in terms of para 14(C) is granted.

Nilesh

(MAULIK J.SHELAT,J)