

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/LETTERS PATENT APPEAL NO. 638 of 2026****In****R/SPECIAL CIVIL APPLICATION/14134/2011****FOR APPROVAL AND SIGNATURE:****HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL****and****HONOURABLE MR.JUSTICE D.N.RAY**

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Approved for Reporting	Yes	No
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**KHODABHAI LAKHABHAI CHAMAR SINCE DECEASED
THROUGH HIS HEIRS & ORS.****Versus****VALABHAI TRIKAMBHAI SINCE DECEASED THROUGH
HEIRS & ORS.**

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Appearance:**MR HARSHIT S. TOLIA, SENIOR ADVOCATE with MR VM
DHOTRE(1089) and MR. MAYUR V DHOTARE(7019) for the
Appellant(s) No. 1,1.1,1.1.1,1.2,1.3,1.4,1.5,1.6,1.7****MS HETAL PATEL, ASSISTANT GOVERNMENT PLEADER for
the Respondent(s) No. 4,5,6****MR TRILOK J PATEL(658) for the Respondent(s) No.****1,1.1,1.1.1,1.1.2,1.1.2.1,1.1.2.2,1.1.2.3,1.1.2.4,1.1.2.5,1.1.3,1.
1.4,1.1.5,2,2.1,2.2,2.3,2.4,2.5,2.6,2.6.1,2.6.2,3,3.2,3.3,3.4,3.5,
3.6**

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**CORAM:HONOURABLE THE CHIEF JUSTICE MRS.
JUSTICE SUNITA AGARWAL****and****HONOURABLE MR.JUSTICE D.N.RAY****Date : 31/07/2026**

ORAL JUDGMENT

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

1. This intra-court appeal is directed against the judgment and order dated 02.04.2026 passed by the learned Single Judge in dismissing the writ petition with the observations as under:-

“22. It is also pertinent to note that there are so many discrepancies and procedural lapses on the part of the revenue authorities concerned in conducting the subject matter but considering the following aspects, I am not inclined to entertain this petition.

i. That all the authorities have, after appreciating and considering the materials including the statements of neighbours, specifically held that the other members of the joint family are also in possession and occupation of the subject land and they are cultivating their respective share of the subject land since last many years and therefore their names are required to be inserted as co-occupiers and while passing the order, it is specifically observed by the Mamlatdar & ALT, Viramgam that it is open for both the parties to agitate their grievance before the competent civil court for their civil rights.

ii. Initially, the notices under Section 32G of the Act have been issued to Ribha Trikam as well as Lakha Trikam but thereafter name of Ribha Trikam has been removed and certificate of purchase has been issued only in the name of Lakha Trikam and learned advocate for the petitioners as well as learned AGP have failed to give any explanation and/or produce any document as to why the name of Ribha Trikam has been removed from the revenue record.

iii. The name of Ribha Trikam along with Lakha Trikam was also reflected in the revenue record as tenant of the original landlord. However, thereafter the name of Ribha Trikam has been removed from the revenue record and petitioner has failed to produce any cogent and reliable evidence on record showing the plausible reason why the name of Ribha Trikam has been removed from the revenue record as a tenant.

iv. Looking to the G.R dated 15.03.1996 as well as the decision of this Court in the case of Shankerbhai Kanjibhai (supra), I am of the considered view that the rights of other members of a joint family are required to be safeguarded and by doing so, the revenue authorities have not committed any error, which requires any interference at the hands of this Court.

v. There are so many other issues which are required to be decided by the competent Civil Court by appreciating oral as well as documentary evidence and while passing the impugned order, the said aspect has been taken care of by the concerned revenue authority.”

2. The challenge before the writ Court was to the order dated 13.06.2011 passed by the Gujarat Revenue Tribunal in Revision Application No.TEN/BA/387/96. They may note that the revision was filed against the order dated 20.02.1996 passed by the Deputy Collector(LR), Ahmedabad in Tenancy Appeal No.143 of 1995, which was preferred against the decision of the Mamlatdar & ALT, Viramgam dated 04.08.1995. The order dated 04.08.1995 passed by the Mamlatdar & ALT confirmed in the Appeal vide decision dated 20.02.1996 passed by the Deputy Collector (LR), Ahmedabad are not subject matter of challenge before the writ Court.

3. In short, the facts stated in the writ petition are that the proceedings under Section 84C of the Gujarat Tenancy and Agricultural Lands Act' 1948 (*hereinafter referred to as 'The Tenancy Act' 1948'*) was issued against the predecessor in interest of the petitioners, which has culminated into an order dated 20.03.1991 passed by the Mamlatdar & ALT, Viramgam in Tenancy Case No.77 of 1990. The notice was with respect to the land of Block No.570 admeasuring 12 Acres 29 Gunthas of village Thori-Mubarak and the order records that there was

no breach by the owners /occupiers of the land in question.

4. In a revision proceedings before the Collector under Section 76A of the Tenancy Act' 1948 in Revision Case No.488 of 1991, while upholding the order dated 20.03.1991 passed by the Mamlatdar & ALT for dropping the proceedings under Section 84C of the Tenancy Act' 1948, the matter was sent to the Mamlatdar & ALT to make an inquiry into the claim of other brothers of predecessor in interest of the petitioners namely, Lakhabhai Trikambhai, i.e the original tenant having tenancy share in the land in question. Pursuant to the order dated 31.03.1992 passed by the Deputy Collector (LR), Ahmedabad directing the Mamlatdar & ALT to make an inquiry into the share of other brothers of the original tenant, Tenancy Case No.291 of 1992 was registered by the Mamlatdar & ALT, under Section 32G read with Section 84(a) of the Tenancy Act' 1948.

5. By order dated 09.07.1992, the Deputy Collector (Appeals), Ahmedabad has held that the lands of Block Nos.539 and 570 were of joint holding of other heirs of Lakhabhai Trikambhai. It was held that the names of other heirs of Lakhabhai Trikambhai were to be recorded in the revenue records as the co-occupiers of the lands in question as their equal share therein had been proved. The predecessor in interest of the petitioner herein namely, Khodabhai Lakhabhai Chamar has preferred an appeal under Section 74 of the Tenancy Act' 1948 before the Deputy Collector, Ahmedabad. The said appeal came to be partly

allowed vide order dated 22.03.1993 remanding the matter back to the Mamlatdar & ALT for taking a fresh decision after verifying the original records of heirship entry No.1129 dated 29.10.1948, whereby names of other brothers of Lakhabhai Trikambhai were mutated in the revenue records. The Mamlatdar & ALT passed an order dated 23.07.1993 holding that other heirs of Lakhabhai Trikambhai have no share in the land in question and entry No.1129 dated 29.10.1948 did not include the land of Survey No.176/1 and 6/2. This order was carried in revision by the contesting respondents therein and T/Revision Case No.300 of 1993 was registered.

6. By order dated 31.03.1994, the Deputy Collector (LR) set aside the order dated 23.07.1993 and remanded the matter back. After remand in T Case No.1015 of 1994, the Mamlatdar & ALT passed an order dated 04.08.1995 recording the findings that in the lands comprising of Block Nos.570 and 539 of village Thori-Mubarak, the petitioners as well as respondents have equal share. The notice under Section 84C was withdrawn and direction was given to the parties to obtain necessary certificates about the heirship from the competent Court. This order was taken up in Tenancy Appeal No.143 of 1995, which was dismissed vide order dated 20.02.1996 confirming the order of the Mamlatdar & ALT dated 04.08.1995.

7. As noted hereinbefore, the revision filed before the Gujarat Revenue Tribunal has also been dismissed vide order dated 13.06.2011. The result is the findings of the

Mamlatdar & ALT, Viramgam in the order dated 04.08.1995 of the respondents being the co-owners of the lands comprising of Block Nos.570 & 530 of the village in question and their names were directed to be recorded.

8. The learned Single Judge has categorically recorded that the matter was sent by the Deputy Collector to the Mamlatdar & ALT on the first occasion by specifically observing that other brothers of Lakhabhai Trikambhai are in possession and jointly cultivating the subject lands and they are also having equal share in the subject land in question, and therefore, the direction was given to the Mamlatdar & ALT to decide the matter afresh while dealing with the challenge under the notice under Section 84C of the Tenancy Act' 1948. It was noted by the learned Single Judge that the Mamlatdar & ALT passed the order dated 09.07.1992 after considering the material, documents as well depositions and statements of adjacent land owners to specifically hold that the heirs of Trikam Rupa and their legal representatives are cultivating their respective shares of the subject land. On the other hand, the petitioners could not prove that Khodhabhai Lakhabhai, their predecessor alone was cultivating the subject land, despite given an opportunity to lead evidence. It was noted that even in the order dated 04.08.1995, after the matter was twice remanded back to the Mamlatdar & ALT, a finding has been recorded that other brothers of Lakhabhai Trikambhai are also in possession as well as cultivating their respective shares of the land in question.

9. It was noted that the case of the petitioners before the writ Court was that the father of deceased petitioners viz Lakhabhai Trikambhai was the original tenant and he had purchased the subject lands from the original owner in the proceedings initiated under Section 32G of the Tenancy Act' 1948, and therefore, certificate of purchase under Section 32M of the Tenancy Act' 1948 had been issued in the name of Lakhabhai Trikambhai alone and since then the land in question is of the ownership and in occupation of the petitioners only and none of the respondents therein have any lawful right over the subject land.

10. The private respondents, however, have pleaded before the writ Court that the land in question was originally of the ownership of the grandfather of the petitioners as well as respondents, i.e. Trikambhai Rupa and since he was in the need of money, he sold the land to Ramjibhai Popatlal but the possession was already with Ribha Trikam and Lakha Trikam and they were jointly cultivating the said land. At earlier point of time, names of Ribha Trikam and Lakha Trikam had been shown as the general tenants. It was also the case of the private respondents that the notice under the provisions of Section 32G of the Tenancy Act' 1948 had been issued jointly in the name of both Ribha Trikam as well as Lakha Trikam, but thereafter, the proceedings had been conducted against Lakha Trikam only and the certificate of purchase had been issued in the name of Lakha Trikam on account of some family arrangement and as per the prevailing practice at the relevant point of time.

11. It was the case of the private respondents that both the petitioners as well as the private respondents are cultivating the land in question jointly and they are in possession of their respective shares for the last many decades. It is noted by the learned Single Judge that after recording statements of various witnesses/neighbours and after considering and appreciating the documents as well as the material on record, all the revenue authorities have held that both the petitioners as well as private respondents are in possession of their respective shares in the lands in question and are engaged in the activities of cultivation of their respective parcels of lands for the last many years.

12. It is noteworthy that the Mamlatdar & ALT vide order dated 04.08.1995 has specifically held that for the disputed question of inheritance, the parties have to approach the competent Civil Court. As noted by the learned Single Judge, the order of the Mamlatdar & ALT is based on the possession and cultivation of the lands in question by private respondents for many years and while passing the said order dated 04.08.1995, it is kept open for both the parties to agitate their grievances before the competent Civil Court for their civil rights.

13. In view of the above-noted facts reflected from the record, it is also noted by the learned Single Judge that in case the certificate of purchase is issued under Section 32M of the Tenancy Act' 1948 in the name of the *karta* or elderly

person of joint family in whose name land stands, it would not mean that the recorded person is the sole tenant of such land. The certificate of purchase being issued to the *karta* of the family, for and on behalf of the family, other members of the family can also claim the benefit of such certificate.

14. A reference has been made to the Government Resolution dated 15.03.1996 whereby the Collectors of the State are directed to mutate the names of all the remaining brothers and sisters in the revenue records for the land of a new tenure given on *santhani* and the land where the provisions of the Tenancy Act are applicable, upon the death of their elder brother whose name is mutated in the revenue records qua those categories of land.

15. It is stated therein that the object and reasons for issuance of the Government Resolution is that generally on sad demise of the original allottee or *karta* of the joint family, the name of his elder son is mutated in the revenue records and the name of other heirs of the original allottee are not mutated. After the death of elder son or *karta* of the joint family, the names of his heirs are mutated in the revenue record, devolving the interest of other legal heirs of the original allottees.

16. It is further recorded that moreover from the revenue entry No.1129 mutated on 29.10.1948, it was found that after the death of Trikam Rupa, being the *karta* of the joint family, the name of Ribha Trikam was mutated in the revenue record

and in the said entry, it was specifically observed that Ribha Trikam, Mala Trikam, Lakha Trikam as well as Ganda Vala were the legal heirs of Trikam Rupa and since they were residing in a joint family and Ribha Trikam being the administrator of the family, his name was required to be mutated as *karta* of the joint family and, as such, the name of Ribha Trikam was mutated as *karta* of the joint family.

17. The learned Single Judge has also noted after looking to the mutation entry No.1370 dated 31.03.1959 that it transpires that along with Lakha Trikam, name of Vibha (sick Ribha) Trikam was also shown as ordinary tenant and both Lakha Trikam and Ribha Trikam were jointly cultivating the subject land.

18. The learned Single Judge also noted that during the course of hearing of the writ petition, directions were issued to the learned advocate for the petitioners as well as learned Assistant Government Pleader to produce the documents based on which the name of Ribha Trikam had been removed from the revenue record as an ordinary tenant. Both have, however, failed to do so.

19. In light of the above, having gone through the reasoning given by the Mamlatdar & AT in the order dated 04.08.1995, which has not been challenged before the writ Court as well as the order passed by the Deputy Collector, again not challenged before the writ Court, and the order passed by the Gujarat Revenue Tribunal, challenged before the writ Court,

the learned Single Judge has reached at the conclusion that no error can be said to have been committed by the concerned revenue authority, which warrants interference by this Court.

20. Taking note of these findings returned by the learned Single Judge, we do not find any error of law in upholding the findings of the revenue authorities about the rights of the respondents to seek recording of their name as co-owner of the lands in question, inherited from their forefathers who were joint tenant and whose names were mutated in the revenue records.

21. Be that as it may, for the issues with regard to inheritance and complex question of facts, it is kept open for the parties to approach the competent Civil Court, as noted in the order passed by the revenue authority.

22. The decision of the learned Single Judge has been challenged on the sole ground before us that there was no occasion for the Deputy Collector to remit the matter back in a proceeding under Section 84C when the notice issued by the Mamlatdar & ALT in the name of Lakha Trikam had been dropped. The submission is that the notice under Section 84C was pertaining to only Block No.570 and Block No.539 was not the subject matter of the proceedings under Section 84C of the Tenancy Act' 1948. The order of the Deputy Collector dated 31.03.1992 for remanding the matter back to the Mamlatdar & ALT on the claim put forth by the respondents about their right as a co-owner cannot be

maintained being absolutely illegal and without any reason.

23. The contention is that the claim put forth by other brothers of Lakha Trikam in the proceedings under Section 84C was not entertainable. Moreover, there is nothing on record which would indicate that the predecessor of the respondents had appeared in the proceedings under Section 32G and once the name of only Lakha Trikam was recorded in the revenue records after due proceedings, the uncle of the petitioners namely, the other brother of Lakha Trikam had survived with no claim.

24. It is, however, admitted that the proceedings under Section 32G was initiated with the notice in the name of two brothers. However, the name of one of the brother only, was recorded in the revenue records. The contention is that the lands in question was recorded in the name of predecessor of the petitioners upon culmination of the proceedings under Section 32G vide order dated 02.08.1960 and the certificate under Section 32M was issued on 02.09.1970. For the first time, the claim was put forth by other brothers of the recorded tenant in the year 1991 when the notice under Section 84C of the Tenancy Act' 1948 was issued in the year 1990 to record the tenant name namely, Lakhabhai Trikamabhai, on the ground of breach of conditions of tenancy.

25. It was vehemently argued that the learned Single Judge has committed a grave error of law in ignoring the fact that the order passed by the Deputy Collector dated 31.03.1992 in

remanding the matter back for making inquiry about the claim of others as co-owners was beyond the scope of inquiry into the notice under Section 84C of the Tenancy Act' 1948.

26. Dealing with the above, suffice it to record that there is no challenge to the findings in the judgment impugned rendered by the learned Single Judge about the mutation entry No.1129 dated 24.10.1948, entered after death of Trikam Rupa, whose name was recorded as *karta* of joint family and that the name of Ribha Trikam shown in the revenue entry as *karta* of family.

27. There is no challenge to the findings in the judgment impugned with regard to entry No.1370 dated 31.03.1959, which shows the names of Lakha Trikam and Ribha Trikam as ordinary tenants. There is no challenge to the findings of the learned Single Judge that both the petitioners as well as the learned Assistant Government Pleader could not place any material on record to indicate as to how the name of Ribha Trikam was removed from revenue records when his name was recorded as *karta* of joint family in the year 1948 upon death of Trikam Rupa and was jointly recorded with Lakha Trikam. The entry No.1384 dated 15.12.1956, for the first time, recorded the name of Lakha Trikam only as an ordinary tenant for the year 1956-57.

28. It is also noteworthy that Trikam Rupa had four sons, namely, Ribha Trikam, Mala Trikam, Lakha Trikam and Vala Trikam. The heirs of Ribha Trikam are impleaded in the writ

petition as respondent Nos.2.1 to 2.6. The heirs of Mala Trikam are impleaded as respondent Nos.3.1 to 3.6. The heirs of Vala Trikam are impleaded as respondent No.1.1 whereas the heirs of Lakha Trikam are the original petitioners and the appellants herein.

29. There is no dispute about the fact that the name of Trikam Rupa was recorded in the revenue records and the revenue entry in the name of his elder son Ribha Trikam as an Administrator of the joint family came to be entered on 29.10.1948, vide entry No.1129.

30. When these findings of fact recorded by the revenue authorities could not be assailed before us, there is no reason for us to take any exception to the opinion drawn by the learned Single Judge that the findings of the revenue authorities cannot be interfered with within the scope of Article 226 of the Constitution of India. For any factual dispute relating to the question of inheritance, however, the liberty rests with the petitioners to approach the Civil Court.

31. In view of the above, we do not find any good ground to interfere in the opinion drawn by the learned Single Judge. The present Appeal stands dismissed being devoid of merits. No order as to costs.

(SUNITA AGARWAL, CJ.)

(D.N.RAY, J.)

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