

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7264 of 2026**

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LEGAL HEIRS OF MADHABHAI JETHABHAI RATHOD & ORS.
 Versus
 STATE OF GUJARAT & ORS.

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Appearance:

MR VICKY B MEHTA(5422) for the Petitioner(s) No. 1,1.1,1.2,1.3,1.4,1.5,1.6
 MR. RAHUL DAVE, LD. ASST. GOVERNMENT PLEADER for the
 Respondent(s) No. 1,2,3

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CORAM: HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 08/06/2026

ORAL ORDER

Learned advocate Mr. Vicky B. Mehta appearing for the applicants submits that the private respondents herein (original plaintiffs) instituted proceedings before the Mamlatdar under the provisions of Section 5 of the Mamlatdar's Courts Act, 1906 against the present applicants (original defendants), praying inter alia therein that the defendants therein are trying to stop the plaintiffs for ingress and egress to their agricultural fields by carrying the agricultural equipments. He further submits that pursuant to the filing of the aforesaid suit, Panch Rojkam had also been carried out, however, no notice was issued to the present applicants before drawing the said Panchnama, which insinuates that the Panchnama was carried out in the absence of the present applicants, which is contrary to the settled legal proposition as well as the relevant provisions of law, more particularly, when the Mamlatdar has recorded its findings only based upon the contents of the said Panchnama. Further, as per Section 5 of the Act, 1906, the

suit has to be filed within a period of six months from the date the cause of action arose. However, in the case on hand, if the plaint is perused, no such date or cause of action is mentioned, and as such, in the absence of any such cause of action being mentioned, the suit filed by the original plaintiffs itself is not maintainable being barred by the period of limitation as provided under Section 5 of the Act, 1906, and as such, under the above circumstances, the order passed by the Mamlatdar dated 23.08.2024 being passed without taking into consideration the relevant provisions of law, and later confirmed by the Deputy Collector, Una vide order dated 21.04.2025 without giving any independent findings, are required to be quashed and set aside, and till then, the applicants are required to be protected.

Considering the aforesaid submissions, issue Notice, making it returnable on 03.08.2206. Learned AGP Mr. Dave waives service of notice for and on behalf of the State-respondents.

Till then, let there be an ad-interim order in terms of Para-8(b).

Direct service is permitted.

VAHID

(DIVYESH A. JOSHI,J)