

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 9532 of 2023**

=====
GAMETI ASHOKBHAI SURJIBHAI & 1 other(s)

Versus

STATE OF GUJARAT
=====

Appearance:

MR. R.D.KINARIWALA(6146) for the Petitioner(s) No. 1,2,3,4,5,6,7,8,9
for the Respondent(s) No. 2ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP for the
Respondent(s) No. 1
=====**CORAM:HONOURABLE MS. JUSTICE SANGEETA K. VISHEN****Date : 09/06/2023****ORAL ORDER**

1. Mr.R.D. Kinariwala, learned advocate for the petitioners submitted that the action of the respondent in issuing notice dated 06.05.2023 to the petitioners under the provisions of Section 105 of the Gujarat Panchayats Act, 1993 (hereinafter referred to as "the Act of 1993"), would be against the principles laid down by this Court in the case of Wind World India Ltd. vs. Shree Tebhada Gram Panchayat reported in 2023(0) AIJEL-HC 245521. It is submitted that it has been held and observed that sub-rule (1) of Rule 55 indicates that before taking any action under sub-section (2) of Section 105, the person against whom the action is proposed, should be given 7 clear days' notice to show-cause why, the proposed action should not be taken giving details of the action desired to be taken. It has been further held that sub-rule (2) of Section 55 mandates that such notice should clearly mention the last date on which, the reply is to be submitted in writing to be delivered to the panchayat and also the date, time and place where, he would be given a personal hearing before the panchayat. It is submitted that no such

procedure has been followed and straightway, impugned notice has been issued under the provisions of Section 105 of the Act of 1993, requiring the petitioners remove the alleged encroachment, despite the fact that the land has been allotted to the petitioners since the year 1964 and the petitioners have been in possession since more than 4 decades.

2. Considered the submissions. Issue notice, returnable on **14.07.2023.**

3. By way of ad-interim relief, parties are directed to maintain status-quo. Direct service is permitted.

Hitesh

(SANGEETA K. VISHEN,J)