

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 7018 of 2026

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SHREE GOPAL PRABHU CHARITABLE TRUST

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MS POONAM M MAHETA(11265) for the Petitioner(s) No. 1

GOVERNMENT PLEADER for the Respondent(s) No. 1,2

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CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 07/05/2026

ORAL ORDER

1. Heard Mr. Pitamber Abichandani, the learned advocate appearing for Ms. Poonam M. Maheta, the learned advocate appearing for the petitioner.

2. The petitioner herein has placed on record an additional affidavit dated 7.5.2026, which is taken on record.

3. Mr. Abichandani, the learned advocate submits that the petitioner herein being allotted the land bearing Revenue Survey No.202 Paiki 1 Paiki admeasuring Acre-0-37 Gunthas (2731.59 Sq.Mtrs.) of Mouje : Babra, Taluka : Babra, Dist. Amreli by the

respondent No.2 – Collector, Amreli by order dated 1.9.2005 upon certain conditions. The respondent authority has initiated proceedings against the petitioner herein for breach of condition of the allotment upon erection of a Mobile Tower in the subject property.

4. It is submitted that the aforesaid as such cannot be construed as breach of condition and places reliance on the order dated 19.2.2007 passed in the Special Civil Application No.32 of 2007.

5. It is apposite to refer to reproduce relevant paragraph of the judgment rendered in *Special Civil Application No.32 of 2007*, dated 19.02.2007, which reads thus:

“6. Having considered the above, it appears that as such when the cellular tower is to be installed, it can be in the residential area and it can also be in the commercial or industrial area. The requirement for installation of cellular tower in the Corporation area is that it can also be over the top of the residential buildings. As such, there are no GDCR for the area of Talala regulating the building construction, however, if the GDCR for the Corporation area is considered as guidelines, then it can be said that cellular tower is permissible even in residential area. Therefore, if in a residential area a cellular tower is to be installed such cannot be said as the use prohibited in a residential area, for which change of use permission may be required as per Section 65 of the Bombay Land Revenue Code. Therefore, Mr.Thakar appears to be right in submitting that no modification of N.A. permission is required for installation of cellular tower, when N.A. Permission is granted for residential purpose.”

6. Submissions advanced by Mr. Abichandani, the learned advocate prima facie requires consideration, Issue **Notice** making returnable on **3.7.2026**.

In the interregnum period, the parties to maintain status-quo as on today till then.

Direct service is permitted.

(VAIBHAVI D. NANAVATI,J)

K.K. SAIYED