

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 12483 of 2021**

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CHANDRAKANT GUMANBHAI PATEL (DHODIYA)**Versus****STATE OF GUJARAT**

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Appearance:**MR YV BRAHMBHATT(206) for the Petitioner(s) No. 1****for the Respondent(s) No. 2,2.1,3,4,5,6****MS DHARITRI PANCHOLI AGP (99) for the Respondent(s) No. 1**

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 09/09/2021****ORAL ORDER**

1. Heard learned Advocate Shri Y.V. Brahmbhatt for the petitioner and learned AGP Ms. Dharitri Pancholi for the respondent No.1.

2. By way of present petition, the petitioner challenges an order passed by the Revisional Authority dated 09.06.2021 confirming an order passed by the District Collector dated 12.02.2019 confirming an order dated 19.10.2018 passed by the Deputy Collector.

3. Learned Advocate Shri Brahmbhatt for the petitioner submits that the dispute is in two parts inasmuch as the Deputy Collector vide order dated 19.10.2018 cancelled an entry being entry No. 6766 with regard to a Will by one Gulabbhai Bhikhabhai Dhodiya in favour of the petitioner inter alia on the ground that restriction under Section 73-AA of the Land Revenue Code applied on the land in question without considering the fact that the petitioner also belonged to the same category of the Scheduled

Tribe to which the testator also belong.

Furthermore, it is submitted by the learned Advocate Shri Brahmabhatt as regards the second part that the Deputy Collector directing that a pedigree chart of original owner / occupier one Bhikhabhai Chhagadabhai Patel is to be prepared and names of the legal heirs of such person to be entered into the land in question. Learned Advocate Shri Brahmabhatt for the petitioner submits that the Deputy Collector while passing such an order had clearly exceeded his jurisdiction, more particularly, since if the legal heirs of late Bhikhabhai Patel had any grievance with regard to their right over any property being prejudiced on account of a Will in favour of the petitioner or even if they wanted to establish their right and title over the property, then they ought to have approached the competent Civil Court for establishing their rights upon the land in question and whereas the petitioner, who was the beneficiary of a Will by son of Bhikhabhai Patel i.e. Gulabbhai Bhikhabhai Dhodiya should not find himself prejudiced without the legal heirs of such person getting declaration from the competent Civil Court. The said order of the Deputy Collector is confirmed by the Collector as well as Revisional Authority on the very selfsame grounds.

Having regard to the same issue **Notice** returnable on **14.10.2021**. Learned AGP waives service of Notice on behalf of the respondent No.1.

Direct service is permitted qua other respondents.

Interim relief in term of maintaining status-quo with regard to the revenue entry in question till the next date is granted.

(NIKHIL S. KARIEL,J)

Y.N. VYAS