

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 8857 of 2026**

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MUKESHKUMAR BHIKHUBHAI PARMAR

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR JAY N SHAH(10668) for the Petitioner(s) No. 1

MR JAYNEEL PARIKH, AGP for the Respondent(s) No. 1,2,3,4,5

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CORAM: **HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE****Date : 01/07/2026****ORAL ORDER**

1. Heard learned counsel Ms.Kruti Shah for the petitioner.
2. It is submitted by learned counsel Ms. Shah that the petitioner herein is running a small footwear shop in a cabin at Buhari, Taluka Valod, District Tapi. She submits that the petitioner was issued notice under Section 61 of the Gujarat Land Revenue Code, 1879 (for short "the Code") dated 02.06.2026 by the City Survey Superintendent, Tapi at Vyara, whereby the petitioner was called upon on 11.06.2026 at 12:30 p.m. to remain present in respect of the unauthorized occupation of the land in question. The petitioner could not remain present on the said date. That the petitioner thereafter immediately came to be served another notice under Section 202 of the Code dated 15.06.2026. Thereafter, the petitioner replied to the said notice under Section 202 of the Code on 20.06.2026. She submits that thereafter by communication dated 23.06.2026 the petitioner was issued notice by the respondent no.4 to vacate the unauthorized occupation on 01.07.2026 at 11:00 a.m. She submits

that in the present case though notice under Section 61 of the Code has been duly issued to the petitioner on 02.06.2026, no final orders have been passed. No order under Section 61 of the Code has been served upon the petitioner before issuance of notice under Section 202 of the Code. She submits that even the reply of the petitioner dated 20.06.2026 has not been properly considered before issuing notice to the petitioner by communication dated 23.06.2026 to vacate the land in question. She submits that no personal hearing has been given to the petitioner at any point of time. She submits that without any order being passed under Section 61 of the Code, no further proceedings under Section 202 of the Code could have been initiated by the respondents. She further submits that even otherwise a statutory appeal period is provided to challenge any order passed under Section 61 of the Code. No proceedings under Section 202 of the Code could have been initiated before the expiring of the appeal period. She submits that due process of law has not been followed in the present case.

3. Learned counsel Ms. Shah submits that the matter was mentioned today morning for urgent circulation, which came to be granted by this Court. She submits that thereafter it was communicated to the authorities, who had come to remove the cabin of the petitioner. She submits that despite such communication being made to the respondent authorities, the respondent authorities have proceeded to evict the petitioner take away her cabin from the alleged land in question. She submits that the authorities have acted

in a highhanded manner only with a view to make the writ petition of the petitioner and the prayers prayed therein infructuous. She submits that the respondents have overreached the process of this Court and accordingly, appropriate action be taken against them.

4. **Issue Notice, returnable on 07.07.2026.** Learned AGP waive service of notice on behalf of the respondent nos.1 to 5. Direct service for respondent no.6 is permitted.

5. In the meantime, the notice dated 15.06.2026 under Section 202 of the Code as well as the communication dated 23.06.2026 passed by respondent no.4 shall remain stayed during the pendency of the present petition.

6. The respondent nos.3 and 4 are directed to file their reply to the writ petition as well as to the submissions made by the learned counsel for the petitioner. The reply shall be filed positively before the next date of hearing. Learned AGP is directed to communicate this order to respondent nos.3 and 4 forthwith. Learned counsel for the petitioner is permitted to file additional affidavit.

ABHISHEK/1

Sd/-
(ANIRUDDHA P. MAYEE, J.)