

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 15566 of 2022**

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LALITKUMAR RAMSHAKTI

Versus

STATE OF GUJARAT

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Appearance:

MR MITUL K. SHELAT WITH MR HITESH M SABHNANI(10731) for the
Petitioner(s) No. 1

for the Respondent(s) No. 2,3,4,5,6,7,8

MR J. K. SHAH, ASSISTANT GOVERNMENT PLEADER/PP for the
Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE SANGEETA K. VISHEN**Date : 10/08/2022****ORAL ORDER**

1. Draft amendment has been tendered. Amendment is allowed in terms of the draft. The same shall be carried out forthwith.

2. Mr Mitul K. Shelat, learned advocate appearing with Mr Hitesh M. Sabhnani, learned advocate for the petitioner submitted that in the proceeding under section 84C of the Gujarat Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "Act of 1948"), the Mamlatdar has passed an order dated 17.1.2011 dropping the notice. It is submitted that being aggrieved, Mr Vinodbhai Parshottambhai Mistry, filed an appeal before the Deputy Collector. During the pendency of the appeal, recently, said Mr Vinodbhai Parshottambhai Mistry passed away which, led to filing of an application for abatement by the petitioner in the month of June 2022 considering the provisions of Order 22 Rule 3 of the Code of Civil Procedure, 1908 so also the provisions of section 72 of the Act of 1948 which, provides for exercise of the powers by reference of incorporation, to the provisions of the Mamlatdars Courts Act, 1906.

It is urged that the application preferred by the petitioner, seeking abatement, ought to have decided first instead the Deputy Collector is insisting of hearing of the main appeal.

3. Considered the submissions. Issue notice, returnable on 1.9.2022. In the meantime, let the Deputy Collector, shall not pass the final order in the proceedings i.e. Tenancy Appeal Case no.30 of 2011. Direct service is permitted.

RAVI P. PATEL

(SANGEETA K. VISHEN,J)