

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 20916 of 2016**

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DEVLIBEN JATARIYABHAI GAMIT....Petitioner(s)

Versus

STATE OF GUJARAT & 2....Respondent(s)

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Appearance:

MR DIVYESH SEJPAL, ADVOCATE for the Petitioner(s) No. 1

ADVANCE COPY SERVED TO GP/PP for the RESPONDENT(s) No. 1

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**CORAM: HONOURABLE SMT. JUSTICE ABHILASHA
KUMARI****Date : 19/12/2016****ORAL ORDER**

Heard Mr.Divyesh Sejpal, learned advocate for the petitioner.

It is submitted that the husband of the petitioner, who is aged about 82 years, was granted the land in question. The petitioner is now in possession thereof after the demise of her husband and is sustaining herself through agricultural activity. By mistake, the petitioner leased out a small portion of the land to a Government contractor, who started a

plant for making asphalt. Realising her mistake, the petitioner revoked the Lease Deed much before the period of two years, for which it had been given and took over the possession of the land. On a complaint made by the third party, proceedings under Section 73AA(3) of the Gujarat Land Revenue Code, 1879 ('the Code' for short) have been initiated by the Collector, as a result of which the Collector has directed the forfeiture of the land, under the provisions of Section 73AA(4) of the Code.

It is submitted that there was no transfer of the land by the petitioner as only a Lease Deed, for a small portion thereof was executed, which was terminated much before the lease period was over. The petitioner has rectified the mistake that she had made due to lack of legal knowledge. The petitioner is in possession of the land in question. In view of the fact that no actual transfer of the land took place, the Collector could not have applied the provisions of sub-section (4) of Section 73AA of the Code. At the most, the provisions of sub-section 3 of Section 73AA of the Code could have been made applicable, which

state that the land would go back to the tribal.

Issue Notice, returnable on 07.02.2017.

Ad-interim relief in terms of Paragraph-7(c) is granted, till then.

(SMT. ABHILASHA KUMARI, J.)

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