

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 20920 of 2016**

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SAVITABEN MOTIBHAI RABARI & 6....Petitioner(s)

Versus

STATE OF GUJARAT & 8....Respondent(s)

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Appearance:

MR SP MAJMUDAR, ADVOCATE for the Petitioner(s) No. 1 - 7

MR N R DESAI, ADVOCATE for the Petitioner(s) No. 1 - 7

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.S.P.Majmudar, learned advocate for the petitioners.

It is submitted that the Deputy Collector had rightly rejected the appeal filed by the private respondents (who are the heirs of the original Lessor), as it was filed after a delay of more than forty-three years with no satisfactory explanation for the condonation of delay as well as on merits. That the Collector has, by his impugned order, not only entertained the Revision Application filed by the private respondents against the order of the Deputy Collector, but has also gone into the issue of the

possession of the petitioners over the land in question. It is submitted that the Collector could not have gone into the merits of the case, as the appeal had been rejected on the ground of delay. Moreover, the issue of possession is not one that the revenue authorities are competent to decide, as it is only the Civil Court that can come to any conclusion regarding it. In this view of the matter as well, the order of the Collector is beyond his jurisdiction.

That the original Lessor had not taken any objection to the entries of the petitioners pursuant to the registered Lease Deed in their favour. Therefore, it was not open to his heirs to have challenged those entries. The Special Secretary (Appeals), Revenue Department ("SSRD", for short) has upheld the order of the Collector without taking into consideration the aspect of delay and the jurisdiction of the revenue authorities in entering into the issue regarding authenticity of the registered Lease Deed or the possession of the parties.

Issue Notice returnable on 08.02.2017.

Ad-interim relief in terms of paragraph-19(B) is

granted, till then.

Mr.K.M.Antani, learned Assistant Government
Pleader waives service of notice for respondent No.1.

(SMT. ABHILASHA KUMARI, J.)

Gaurav+