

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 13958 of 2019****FOR APPROVAL AND SIGNATURE:****HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**

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Approved for Reporting	Yes	No

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NAVNITBHAI MULCHANDBHAI SHAH & ANR.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR.D K.PUJ(3836) for the Petitioner(s) No. 1,2

MR JAYNEEL PARIKH, AGP for the Respondent(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 2,3

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CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**Date : 21/01/2026****ORAL JUDGMENT**

1. Heard Mr. D. K. Puj, the learned advocate appearing for the petitioners and Mr. Jayneel Parikh, the learned AGP appearing for the respondent – State.

2. The draft amendment as prayed for in prayer clause sought is granted. The same to be carried out forthwith.

3. Rule returnable forthwith. Mr. Jayneel Parikh, the learned AGP waives service of rule for and on behalf of the respondent – State.

4. The petitioners herein have challenged the show cause notices dated 29.4.2019 and 23.7.2019 issued by the respondent No.2 – Mamlatdar and ALT, Kheda under Section 84C of the Bombay Tenancy and Agricultural Land Act, 1948 in Tenancy Case No.2 of 2019.

5. Mr. D. K. Puj, the learned advocate appearing for the petitioners submits that the impugned notices are without jurisdiction. The same having been issued after a delay of 33 years of period for the first transaction which was of 30.1.1986. The land in question is old Survey No.110/A/1.

5.1 It is further submitted that in the facts of the present case the parcel of lands mentioned in the list at Sr. Nos.6, 7, 10 to 12, are further sold and/or donated, wherein revenue entries are also mutated by way of Revenue Entry Nos.96, 47 and 244, as referred to in the aforesaid table.

5.2 To substantiate the aforesaid submission, reliance is placed on the following decisions :-

- (1) (1997) 6 SCC 71
- (2) 2016 (37) 16 GLR 1021
- (3) (2007) 11 SCC 363
- (4) (2009) 9 SCC 352
- (5) 2024 (0) AIJEL-HC-248451

5.3 It is further submitted that some of the lands in question are non-agriculture land as back as from the year 2014. It is submitted that upon a land being converted into non-agriculture land the respondent authority loses its right to continue with the proceedings under the Tenancy Act.

To substantiate the aforesaid contention, reliance is placed on 2006 GLHEL_HC 216812 and Special Civil Application No.15575 of 2015 and allied matters.

5.4 It is submitted that in view thereof, the impugned show cause notice is barred by delay and laches and the same is required to

be quashed and set aside in light of the well settled position of law and present petition is required to be allowed on the aforesaid ground alone without even going into the title of the petitioners whether the petitioners herein are agriculturist or not.

5.5 Placing reliance on the aforesaid submissions, it is submitted that the impugned show cause notice is issued to the petitioners herein at the behest of the third person who has no interest in the land in question. It is upon such complaint made by Shri Chandrakant Kiritbhai Patel that the proceedings came to be initiated against the petitioners.

5.6 It is submitted that initiation of such proceedings at the behest of a third person itself is such that, the same ought not to have been initiated at the instance of a person who has no right or interest in the property in question.

5.7 Reliance is placed on the ratio laid down in the Special Civil Application No.3038 of 2023 wherein it is held that the third party has no right to approach the authority.

6. Mr. Jayneel Parikh, the learned AGP submitted that the impugned notices were issued to the petitioners herein on 29.4.2019 and 23.7.2019 pursuant to an application made by Shri Chandrakant Kirtibhai Patel alleging that the petitioners herein are not agriculturists.

6.1 Placing reliance on the aforesaid submission, it is submitted that the petitioners herein may appear before the respondent authority and substantiate the submissions as raised in the present petition to facilitate the respondent authority to act in accordance with law.

6.2 It is fairly submitted that for those lands which are converted into N.A. the proceedings under Section 84C of the Tenancy Act would not be undertaken, however in absence of any reply filed by the petitioners the competent authority would not know.

7. Mr. Puj, the learned advocate in rejoinder reiterates the contentions raised earlier and submits that in view of settled position of law no proceedings could have been initiated against the petitioners herein after a lapse of 33 years.

8. Having heard the learned advocates appearing for the respective parties, to arrive at a final conclusion this Court deems it fit to reproduce the chart placed on record by Mr. Puj, the learned advocate appearing for the petitioners wherein show cause notices are issued on 29.4.2019 and 23.7.2019 at page-26 and the entries were also certified which read thus :-

No.	Survey No.	Entry Certified	Entry page no.	N.A	NA order date	NA order Page no.	Property sold out	Sale Deed	page no.
1	25	29/07/2008	237	N.A	16/05/2019	240	21/05/2019	Gift Deed Entry No. 694 of 2019	244
2	74/A/1	29/07/2008	168	N.A	16/05/2019	-	-	-	-
3	74/A/2	29/07/2008	168	N.A	16/05/2019	-	-	-	-
4	74/A/3	29/07/2008	168	-	-	-	-	-	-
5	75/A/1	15/01/2007	138	-	-	-	-	-	-
6	75/A/2	15/01/2007	138	N.A	31/05/2019	142	-	-	-
7	144/A/1	15/01/2007	71	-	-	-	-	-	-
8	144/A/2	15/01/2007	71	N.A	29/05/2019	81	20/06/2019	Sale Entry No. 825 of 2019	96
9	146/1	21/04/2004	124	-	-	-	-	-	-
10	146/2	21/04/2004	124	-	-	-	-	-	-
11	147/A	15/01/2007	71	-	-	-	-	-	-
12	110/A/1	30/01/1986	Form 7 Entry No.803	N.A	17/04/2014	32	05/10/2016	Sale Entry in Village Form no. 7 in 1986	47

8.1 In light of the aforesaid undisputed facts, the respondent State is not in a position to controvert the factual position. There is only lame efforts made that such notices were issued at the behest of the third person.

9. At this stage, it is apposite to refer to decision in the case of Mohamad Kavi Mohamad Amin vs. Fatmabai Ibrahim, reported in (1997) 6 SCC 71, paragraph-2 which reads thus :-

“2. Although Mr. Bhasme, learned counsel appearing for the appellant took a stand that under Section 63 of the Act aforesaid, there should not be any discrimination amongst the agriculturists with reference to the State to which such agriculturist belongs. But according to him even without going into that question the impugned order can be set aside on the ground that suo motu power has not been exercised within a reasonable time. Section 84-C of the Act does not prescribe any time for initiation of the proceeding But in view of the settled position by several judgments of this court that wherever a power is vested in a statutory authority without prescribing any time-limit, such power should be exercised within a reasonable time. In the present case the transfer took place as early as in the year 1972 and suo motu enquiry was started by the Mamlatdar in September 1973. If sale deeds are declared to be invalid the appellant is likely to suffer irreparable injury, because he has made investments after the aforesaid purchase. In this connection, on behalf of the appellant reliance was placed on a Judgement of Justice S.B. Majmudar (as he then was in the High court of Gujarat) in State of Gujarat V/s. Jethmal Bhagwandas Shah disposed of on 1.3.1990, where in connection with Section 84-C itself it was said that the power under the aforesaid section should be exercised within a reasonable time. This court in connection with other statutory provisions, in the case

of State of Gujarat V/s. Patil Raghav Natha and in the case of Ram Chand V/s. Union of India has impressed that where no time-limit is prescribed for exercise of a power under a statute it does not mean that it can be exercised at any time; such power has to be exercised within a reasonable time. We are satisfied that in the facts and circumstances of the present case, the suo motu power under Section 84-C of the Act was not exercised by the Mamlatdar within a reasonable time. Accordingly, the appeal is allowed. The impugned orders are set aside.”

9.1 It is apposite to refer to decision in the case of Bharatbhai Naranbhai Vegda and Ors., vs. State of Gujarat and Ors, reported in (2016) 57 (2) GLR 1021, paragraphs 6, 8, 10, 12 and 20 which read thus :-

“6. It is by now well-settled that if the action of initiation of the show-cause notice is without jurisdiction, or ex-facie barred by delay, the court may entertain the petition under Art. 226 of the Constitution. At this stage, we may refer to the decision of the Apex Court in case of State of Punjab and ors. v. Bhatinda District Co- operative Milk Producers Union Ltd., reported at (2007) 11 SCC 363, wherein the show-cause notice issued in purported exercise of the revisional power came to be challenged, inter alia, on the ground that the notice was beyond the period of limitation. A question arose before the Apex Court as to whether such a question could be considered as the jurisdictional question or not. At paragraph 24, it was observed thus -

"24. Question of limitation being jurisdictional question, the writ petition was maintainable."

Further, at paragraph 25, it was observed thus -

"25. We are, however, not oblivious of the fact that ordinarily the writ court would not entertain the writ application questioning validity of a notice only, particularly, when the writ petitioner would have an effective remedy under the Act itself. This case, however, poses a different question. The Revisional Authority, being a creature of the statute, while exercising its revisional jurisdiction, would not be able to determine as to what would be the reasonable period for exercising the revisional jurisdiction in terms of Section 21(1) of the Act. The High Court, furthermore in its judgment, has referred to some binding precedents which have been operating in the field. The High Court, therefore, cannot be said to have committed any jurisdictional error in passing the impugned judgment." (Emphasis supplied)

8. *On the first aspect, for reasonable period, we may refer to some of the decisions, though of course there are number of such decisions. The first judgment on the principle delay in exercise of power came to be considered in the case of State of Gujarat vs. Patel Raghav Natha reported at (1969) 2 SCC 187, wherein it was held that if the revisional authority was inclined to exercise the power under the Bombay Land Revenue Code, it ought to have been satisfied that such power has been invoked within reasonable time, otherwise the bar of delay would operate. Thereafter, there are number of decisions on the said point but, we may usefully refer to the recent decision of this Court in the case of Chandulal Gordhandas Ranodriya & Ors. v. State of Gujarat reported at 2013(2) GLR 1788, wherein, this Court while considering the question of delay in initiation of action under section 84C of the Bombay Tenancy and Agricultural Lands Act, in a case where delay was about 5 years, observed at paragraph 13 as under:*

"13. In our opinion, it is well settled that even though void transaction if is allowed to remain effective for considerable long period, the authority

named therein will be precluded from initiating proceedings to annul it. It can remain effective and in existence till it is invalidated and set aside. If its existence is allowed for a considerable period and by a passage creating valuable rights in favour of a considerable section of people, like the appellants in the present case, it is difficult to accept the proposition that despite the change the competent authority under the Act would be entitled to exercise powers under Section 84(C) of the Act at any point of time."

Further, this Court in the said decision elaborately considered the question of delay and the reasonable period at paragraph 16, which reads as under:

"16. In the case of Employees State Insurance Corporation v. C.C. Santhakumar reported in 2007(1) SCC 584, the Supreme Court has elaborately explained this principle of action to be taken within a reasonable period of time. It would be appropriate for us to quote paragraph Nos.35, 36, 37, 38, 39 and 40.

"35. A "reasonable period" would depend upon the factual circumstances of the case concerned. There cannot be any empirical formula to determine that question. The court/authority considering the question whether the period is reasonable or not has to take into account the surrounding circumstances and relevant factors to decide that question.

36. In State of Gujarat v. Patel Raghav Natha (1969 (2) SCC 187) it was observed that when even no period of limitation was prescribed, the power is to be exercised within a reasonable time and the limit of the reasonable time must be determined by the facts of the case and the nature of the order which was sought to be varied. This aspect does not appear to have been specifically kept in view by the Division Bench. Additionally, the points relating to applicability of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, and even if it is held that the Act was applicable, the reasonableness of the time during which action should have been initiated were also not considered. It would be hard to give an exact definition of the word "reasonable". Reason varies in its conclusions according to the idiosyncrasy of the individual and the times and circumstances in which he thinks. The reasoning which built up the old scholastic logic stands now like the jingling of a child's toy. But mankind must be satisfied with the reasonableness within reach; and in cases not covered by authority, the decision of the Judge usually determines what is "reasonable" in each particular case; but frequently reasonableness "belongs to the knowledge of the law, and therefore to be decided by the courts". It was illuminatingly stated by a learned author that an attempt to give a specific meaning to the word "reasonable" is trying to count what is not a number and measure what is not space. It means prima facie in law reasonable in regard to those circumstances of which the actor, called upon to act reasonably, knows or ought to know. (See:

Municipal Corpn. of Delhi v. Jagan Nath Ashok Kumar (1987 (4) SCC 497) and *Gujarat Water Supply & Sewerage Board v. Unique Erectors (Gujarat) (P) Ltd.* (1989 (1) SCC 532). As observed by Lord Romilly, M.R. in *Labouchere v. Dawson* (41 LJ Ch 472) it is impossible a priori to state what is reasonable as such in all cases. You must have the particular facts of each case established before you can ascertain what is reasonable under the circumstances. Reasonable, being a relative term is essentially what is rational according to the dictates of reason and not excessive or immoderate on the facts and circumstances of the particular case.

37. These aspects were highlighted in *Collector and Others v. P.Mangamma and Others* (2003 (4) SCC 488).

38. As observed in *Veerayee Ammal v. Seenii Ammal* (2002 (1) SCC 134), it is "looking at all the circumstances of the case; a "reasonable time" under ordinary circumstances; as soon as circumstances will permit; so much time as is necessary under the circumstances, conveniently to do what the contract requires should be done; some more protracted space than 'directly'; such length of time as may fairly, and properly, and reasonably be allowed or required, having regard to the nature of the act or duty and to the attending circumstances; all these convey more or less the same idea".

39. According to *Advanced law Lexicon* by P. Ramanatha Aiyar 3rd Edition, 2005 reasonable time means as follows:

"That is a reasonable time that preserves to each party the rights and advantages he possesses and protects each party from losses that he ought not to suffer.

"Reasonable Time" is defined to be so much time as is necessary, under the circumstances, to do conveniently what the contract or duty requires should be done in a particular case. If it is proper to attempt any definition of the words "reasonable time", as applied to completion of a contract, the distinction given by Chief Baron Pollock may be suggested, namely, that a "reasonable time" means as soon as circumstances will permit. In determining what is a reasonable time or an unreasonable time, regard is to be had to the nature of the instrument, the usage or trade or business, if any, with respect to such instrument, and the fact of the particular case. The reasonable time which a passenger is entitled to alighting from a train is such time as is usually required by passengers in getting off and on the train in safety at the particular station in question. A reasonable time, looking at all the circumstances of the case; a reasonable time under ordinary circumstances; as soon as circumstances will permit; so much time as is necessary under the circumstances, conveniently to do what the contract requires should be done; some more protracted space than "directly" such length of time as may fairly, and properly, and reasonably be allowed or required, having regard to the nature of the

act or duty and to the attending circumstances; all these convey more or less the same idea. Reasonable time always depends on the circumstances of the case. (Kinney) It is unreasonable for a person who has borrowed ornaments for use in a ceremony to detain them after the ceremony has been completed and the owner has demanded their return. (AIR 1930 Oudh 395). The expression "reasonable time" means so much time as is necessary under the circumstances to do conveniently what the contract or duty requires should be done in a particular case". [See: Joseph Severance v. Benny Mathew (2005(7) SCC 667)]

40. In all these cases at hand the factual aspects have not been examined, because the grievance appears to have been focused on the applicability of Section 77 (1A)(b)."

Further, at para 19, it was observed as thus-

"19. It must be fairly said that if the statute does not prescribe time limit for exercise of revisional powers, it does not mean that such powers can be exercised at any point of time even if there is a breach of Section 43 of the Act, which is a provision which relates to a new tenure land, rather it should be exercised within a reasonable period of time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. It is clear from various judgments of the Supreme Court that where a statutory provision for exercise of any suo motu powers of revision does not prescribe any limitation, the powers must be exercised within a reasonable period of time even in the case of transaction which would be termed as void transaction."

10. In our view, the above referred well considered two decisions of this Court makes the position abundantly clear that if the action is to be initiated for setting aside of a transaction under the Ordinance by invoking section 54 read with section 75 of the Ordinance, it has to be within reasonable period. The above referred two decisions are in respect of the cases wherein the powers were exercised and proceedings were initiated after 5 years and 17 years respectively, whereas in the present case, it is after more than 35 years. Hence, we find that the initiation of the action itself can be said as beyond reasonable period and the bar of delay and laches could operate against the authority in initiation of the action. The aforesaid aspect is coupled with two additional circumstances, one is that the land

has changed hands further during the period of delay and the ownership is transferred by the purchaser to the another person and the second is that the revenue entries were mutated. Thereafter, they were also certified by the competent authority and in spite of that, no action was taken for cancellation of such entry or otherwise or even for declaration of the transaction as invalid within reasonable period. If during the period of delay, the rights of the parties in the properties are altered, the delay would operate as a bar with more gravity and when the ownership is changed during the period of delay, the bar for not taking action within reasonable period would also operate with more gravity against the authority in initiation of the action.

12. We may first consider the question for interference to the order passed by the learned Single Judge. There cannot be second opinion on the aspect that if two views are possible and the learned Single Judge has taken one view, the Division Bench of this Court in exercise of the jurisdiction under Letters Patent would be loathe to interfere and may not entertain the appeal, but in a case where only one view was possible or that well settled legal position is not considered, which goes to the root of the matter for the jurisdiction of the authority, such would be an appropriate case for interference for exercise of the jurisdiction under the Letters Patent. Examining the case on the said aspects, we find that as per the above referred decisions of the Apex Court, the limitation provided for initiation of the action or the consideration of the reasonable period for initiation of the action or the bar operating of delay for initiation of the action are jurisdictional aspects on the power of the authority which has initiated the action. If as per the well settled principles of law, the bar

of delay operates against the exercise of the jurisdiction or that the initiation of the action is beyond reasonable period as per the well settled principles of law, the action can be said as without jurisdiction. If an action is without jurisdiction, as observed by the Apex Court in the above referred decision in the case of State of Punjab (supra), the petition under Article 226 of the Constitution can be maintained and the jurisdiction of this Court under Article 226 of the Constitution can be invoked. If the action is decided on the ground of jurisdiction and found to be without jurisdiction by the Court while undertaking judicial scrutiny under Article 226 of the Constitution, the only view possible is that of the action without jurisdiction. If the action was without jurisdiction, we do not see that it would fall in the arena of discretion to be considered while exercising the power under Article 226 of the Constitution. We may record that the contention is not based on the conduct on the part of the petitioners which may lead the Court to decline the interference but the contention is on the ground that two views were not possible as against the settled legal position on the point of reasonable period and the delay for initiation of the action. Hence, we find that it is a fit case for interference with the order passed by the learned Single Judge and it cannot be said to be outside the jurisdiction of the appellate power of the Division Bench of this Court in Letters Patent as sought to be canvassed.

20. In any case, as the notice could be said as without jurisdiction on the ground of delay and laches as per the well settled principles of law, we do not propose to express any final view on the aspect of section 75 of the Ordinance. In any case, examining the matter on the either of the situation, the action of issuance of show-cause

notice can be said to be without jurisdiction and hence, the petitioner would be justified in invoking the jurisdiction of this Court under Article 226 of the Constitution.”

9.2 It is apposite to refer to decision in the case of State of Punjab and Ors., vs. Bhatinda District Cooperative Milk Producers Union Ltd., reported in (2007) 11 SCC 363, paragraph-11 which reads thus :-

“11. The learned counsel appearing on behalf of the appellant, in support of this appeal, inter alia, submitted that the High Court in passing the impugned judgment committed a serious illegality in so far as it failed to take into consideration that no time limit has been fixed for exercise of suo moto jurisdiction of the Revisional Authority. It was further submitted that as it was open to the respondent to raise all contentions before the Revisional Authority itself, it was not a fit case where the High Court should have exercised its power of judicial review.”

9.3 It is apposite to refer to decision in the case of Santoshkumar Shivgonda Patil and Ors., vs. Balasaheb Tukaram Shevale and Ors., reported in (2009) 9 SCC 352, paragraphs 10, 11 and 12 which read thus :-

“10. Recently, in the case of State of Punjab and Others V/s. Bhatinda District Cooperative Milk Producers Union Ltd. [JT 2007

(12) SC 314 : 2007 (11) SCC 363] while dealing with the power of revision under Section 21 of the Punjab General Sales Tax Act, 1948, it has been held:

"17. A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefore, the same would not mean that the suo motu power can be exercised at any time.

18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.

19. Revisional jurisdiction, in our opinion, should ordinarily be exercised within a period of three years having regard to the purport in terms of the said Act. In any event, the same should not exceed the period of five years. The view of the High Court, thus, cannot be said to be unreasonable. Reasonable period, keeping in view the discussions made hereinbefore, must be found out from the statutory scheme. As indicated hereinbefore, maximum period of limitation provided for in sub-section (6) of Section 11 of the Act is five years."

11. It seems to be fairly settled that if a statute does not prescribe the time limit for exercise of revisional power, it does not mean that such power can be exercised at anytime; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein.

12. Ordinarily, the reasonable period within which power of revision may be exercised would be three years under Section 257 of the Maharashtra Land Revenue Code subject, of course, to the exceptional circumstances in a given case, but surely exercise of

revisional power after a lapse of 17 years is not a reasonable time. Invocation of revisional power by the Sub-Divisional Officer under Section 257 of the Maharashtra Land Revenue Code is plainly an abuse of process in the facts and circumstances of the case assuming that the order of Tehsildar passed on March 30, 1976 is flawed and legally not correct.”

9.4 It is apposite to refer to decision in the case of State of Gujarat and Ors., vs. Hussainbhai Satarbhai Meman, delivered in the Letters Patent Appeal No.1825 of 2019 in the Special Civil Application No.21151 of 2015 and allied matters judgment dated 14.10.2024, paragraphs 12, 48, 83 and 128 which read thus :-

“12. From a perusal of the reasons for initiating proceedings for eviction as narrated in the chart provided by the learned Additional Advocate General is that none of the vendees could prove their status as agriculturists or labourers by filing any documentary evidence. It was, thus, concluded that the sale of the lands in question were made in favour of Non-agriculturist and, admittedly, since there was no permission for such sale obtained from the Collector or the authorised officer, the sales deeds are invalid and no valid, right, title or interest could pass on to the vendees by virtue of the said sale deeds.

48. The decision in Patel Raghav Natha¹ has been referred to and relied upon by the Apex Court consistently in the following

decisions:-

- (1) Pune Municipal Corporation vs. State of Maharashtra & Ors.34*
- (2) Madhya Pradesh Housing Board vs. Shiv Shankar Mandil & Ors.35*
- (3) Santoshkumar Shivgonda Patil vs. Balasaheb Tukaram Shevale*

83. Summing up the arguments of the learned counsels for the petitioners, we may note the points raised by them to seek dismissal of the appeals :-

(i) No sale transaction carries a stamp of invalidity. Appropriate order has to be passed to invalidate or else the transaction would be de facto valid.

(ii) Permission includes de facto permission. As no action has been taken for years together, de facto permission can be assumed with the passage of time.

(iii) Limitation must be taken to be a reasonable period of time and what would be a reasonable period of time has to be worked out from case to case basis. While examining the stand of the State, object of the Act is to be kept in mind with the undisputed fact that the lands in question are being used for agricultural purposes since the date of purchase.

(iv) All entries are certified by the Circle officer who is supposed to make an inquiry before certifying the entries. There is nothing on record which would demonstrate that any adverse view had been noted by the Circle officer or certification of entry was wrong.

(v) In some of the Writ petitions, it was argued that even the State

had accepted that the sales were in favour of agriculturists and the proceedings were initiated 24 years after certification of entry in favour of the vendees.

128. At the cost of repetition, it may be reiterated that a declaration of the sale deed as invalid was required to be made after an inquiry which must have been conducted within a reasonable time before the Summary eviction. The sale deeds remained valid for considerable long period of time and moreover, they are binding on the vendors. The inquiry into the status of the predecessor-in-title of the petitioners or the petitioners herein after such a long lapse of time, can not be permitted, as it may not be possible to bring on record all the relevant documents in such an inquiry(s). A transaction hit by Section 54 is not void ab initio, but may be invalidated and hence remains valid till it is declared invalid. The settled position of law that the transaction which remained valid and effective for a considerable period of time cannot be unsettled, is not to be deviated. Further, there is no vesting contemplated under the Ordinance, 1949 and as noted hereinbefore, the show cause notices are prescribing for not only eviction of the transferees, but resumption of the land in favour of the State Government by directing for entry of the name of the State in the revenue records after deletion of the entries, even of the original landholders while deleting the name of the transferees, which is wholly without jurisdiction.”

10. From the aforesaid position of law, as referred to hereinabove, initiation of proceedings under Section 63 read with

Section 84C of the Tenancy Act for the first transaction relating to as back as of year 1986 having been issued on 29.4.2019 for various parcels of land is undertaken after a delay of more than 33 years, such exercise of powers are beyond reasonable period and principles of delay and laches would operate against the authority for initiation of such action belatedly. Further in view of considerable time lapsed, further equity would be created. Resultantly the ownership may be transferred to another person and second revenue entry may also be mutated. The certification of entry are such that the same are posted upon due verification and in accordance with law. It is also not in dispute that in the facts of the present case certain parcels of lands are non-agriculture land, further third party rights are also created and they are put to commercial use. Admittedly, the lands which are of non-agriculture nature, proceedings under Section 84C of the Tenancy Act Code are not maintainable.

11. At this stage, it is apposite to refer to decision in the case of Ravichand Manekchand Sheth vs. State of Gujarat, reported in 2006 (0) GLHEL-HC 216812, paragraphs 5 and 9 which read thus :-

“5. It is submitted by the learned Advocate for the petitioners that on the basis of the N.A. permission granted by the concerned authority, which stand valid even as on today, the petitioner No. 1 has altered his position so irreversibly, that the impugned orders deserve to be quashed, as altered position of the land cannot be put in its original conditions. A huge expenditure has been incurred by the petitioner No. 1 after getting N.A. permission and land has been divided into 20 sub-plots, and therefore, there is sale of all these 20 sub-plots to the concerned purchasers, by the registered sale-deeds. This creates estoppel on the part of the respondent authority to issue any notice for alleged breach of the Ordinance, 1949. It is also submitted by the learned Advocate for the petitioners that the revisional powers cannot be exercised by the Assistant Collector, Morbi in view of the provision of the Rule 108(6) of the Gujarat Land Revenue Rules, 1972. In the facts of the present case, the impugned order dated 10th July, 1993 (Annexure "H" to the memo of the petition) has been passed in Revision Case No. 23 of 1992 by the Assistant Collector, Morbi, and therefore, it deserves to be quashed and set aside.

“9. Having heard the learned Counsel for both the sides and looking to the facts and circumstances of the case, the provisions of law, the impugned orders and several judgments, which are referred hereinbelow, in my view, the order 10th July, 1993 passed by the Assistant Collector, Morbi in Revision Case No. 23 of 1992 (Annexure "H" to the memo of the petition) as well as the order dated 29th April, 1994 passed by the Collector, Rajkot delivered in Land Appeal No. 19 of 1993 (Annexure "I" to the memo of the petition) and the order dated 15th October/November, 1994 passed by the State Government (Annexure "J" to the memo of the petition) deserves to

be quashed and set aside, mainly for the following facts and reasons:

(i) All the authorities below have not properly appreciated the facts that the mutation Entry No. 1800 is already in existence, which reveals the fact that the petitioner No. 1 is an agriculturist and was the owner of the land bearing Survey No. 1137. This entry was also certified by the concerned authority on 23th March, 1991 under Sec. 135(D) of the Bombay Land Revenue Code, 1879 (Annexure "C" to the memo of the petition). In face of this mutation entry and without shifting and affecting validity of this mutation entry, the notice issued by the respondent authority dated 12th November, 1992 under Rule 108(6) of the Gujarat Land Revenue Rules, 1972 was bed in the eye of law. So long as the said entry is not challenged by any of the respondent authorities, it cannot be said that the petitioner No. 1 was not an agriculturist. Keeping the said entry as it is, the conclusion has been arrived at by all the authorities below, that the land bearing Survey No. 1005 paiki was purchased by an non-agriculturist, and therefore, this is an error apparent on the face, in all the orders passed by all the authorities below.

(ii) Looking to the facts of the present case, it seems that after certification of the mutation Entry No. 2605 on 31st August, 1989, the petitioner No. 1 had applied for Non-Agricultural Use of the land (popularly known as N.A. use permission) under Sec. 65 of the Bombay Land Revenue Code, 1879. The N.A. permission was also granted by the concerned authority on 22nd October, 1992 (Annexure "E" to the memo of the petition). By virtue of this N. A. permission granted by the concerned authority under Sec. 65 of the Bombay Land Revenue Code, 1879, the petitioner No. 1 incurred huge expenditure and converted the land of Survey No. 1137 into 20 sub-plots. These sub-plots have been transferred to the different purchasers by registered sale-deeds. This alteration of possession, after grant of N.A. use permission and after, the expenditure incurred by the petitioner No. 1, creates an estoppel on the part of the respondent authority to issue a notice under any law, applicable to the agricultural land. N.A. use permission granted under Sec. 65 of the Code, 1879 is such a non-transparent wall that through which the respondent authority cannot see the green colour of an agricultural land. Now there will be bricks, cement and strength of steel. The only window, open for the respondent authority to see the agricultural land, is the violation of the conditions attached to the N.A. use permission. Violation of the conditions of the N.A. use permission are the windows of that non-transparent wall. Unless and until the breach of conditions of the N.A. use permission is established, the respondent authority, cannot issue any notice, pertaining to the agricultural land. In the present case, N.A. permission granted on 22nd October, 1992. Never the respondent

authority have ever alleged the breach of any conditions of N.A. permission, and therefore, issuance of the notice dated 12th November, 1992 itself, under Rule 108(6) of the Gujarat Land Revenue Rules, 1972 is not permissible, is illegal and is invalid, looking to the facts of the present case. Once the N.A. permission is given for any land, it ceased to be an agricultural land, and therefore, notice issued for alleged breach of Sec. 54 of the Ordinance, 1949 is not valid, and hence, all the subsequent order passed by all the authorities below deserve to be quashed and set aside.

(iii) It has been decided by this Court in the case of M/s. Jailaxmi Estate & Anr. V/s. State of Gujarat & Ors., reported in AIR 1994 Guj. 38 (Para 6 thereof), reads as under :-

"6..... In the present case, in view of the N.A. Order dated May 27, 1981, the land in question cannot be characterised as an agricultural land. Under Sec. 63, an agricultural land cannot be sold to any one except an agriculturist. The sale-deed at Annexure "C" came to be executed on June 11, 1981, i.e. after the land was converted into non-agricultural one. In the facts of the case, the provisions of Sec. 63, therefore, cannot be said to be attracted, as the land in question was no longer an agricultural land. The question, therefore, to sell it to the person other than agriculturist does not arise. With the grant of N.A. permission on May 27, 1981, the land in question did not retain its agricultural character. The second respondent has, therefore, no authority or jurisdiction to issue show cause notice under Sec. 84C of the Bombay Tenancy Act, inasmuch as it cannot be said that the land which has been disposed of was an agricultural land. In my view, a land in respect of which N.A. permission has been granted and which has, therefore, lost its official character of agricultural land is not "land" within the meaning of Sec. 2(8) of the Bombay Tenancy Act. Therefore, the provision of Sec. 63 of the Bombay Tenancy Act were not applicable to it and the show-cause notice issued on that basis cannot be sustained."

(Emphasis supplied)

Thus, in the present case also, N.A. use permission was given. Therefore, once the land ceases to be, the agricultural land, it is not covered by definition of the word "land" given in Sec. 2(k) of the Ordinance, 1949. Thus, once the land is not covered by Sec. 2(k), the respondent authority has no power, jurisdiction and authority to issue any notice under Sec. 54 of the Ordinance, 1949. The amount necessary to be paid to the respondent authority, had also been paid by the petitioner No. 1 for grant of N.A. permission, and therefore, it loses the character of an agricultural land.

(iv) Similarly, it has been decided by this Court in the case of *Mali Amrutlal Becharbhai & Ors. V/s. Dist. Collector of Banaskantha & Ors.*, reported in AIR 1994 Guj. 36 (Para 4 thereof), it has been held as under :-

"4. Mr. Dhaval Dave, the learned Asstt. Government Pleader, also invited my attention (to) Sec. 32R" of the Bombay Tenancy Act contending that on the petitioners' failure to cultivate the said land personally, he is liable to be evicted from the said land. The petitioners, after having the occupancy rights under the provisions of the Bombay Tenancy Act, including Sec. 32R of the Act, becomes an occupant of the land in question for all legal purposes. He is, therefore, entitled to convert that land for non-agricultural use. The Collector, on passing necessary orders, for converting the land into non-agricultural one, the land does not remain agricultural land any longer. Sec. 32R of the Bombay Tenancy Act cannot therefore have any application in the facts of the case. Secs. 32R and 43 of the Bombay Tenancy Act contemplate the restriction on transfer of the agricultural land and that the tenant, on failure to cultivate the agricultural land personally would be liable to be evicted from the said land. In my opinion, the said provisions are not attracted in the facts of the present case. It is not in dispute that the petitioners were permanent tenants in respect of the land in question." (Emphasis supplied)

In the facts of the present case also, after grant of N.A. use permission, the land loses its agriculture character, therefore Sec. 54 of the Ordinance, 1949 is not applicable to such land.

(v) Looking to the facts of the present case, the land bearing Survey No. 1005 paiki was purchased by the petitioner No. 1 in the year 1989. Mutation entry was also entered into the records of right. Mutation Entry No. 2605 was made and the said entry was also certified on 31st August, 1989 and at much belated stage, after lapse of more than three years period, a notice dated 12th November, 1992 was issued under Rule 108(6) of the Gujarat Land Revenue Rules, 1972 alleging that the petitioner No. 1 was not entitled to purchase the land of Survey No. 1005 paiki as the petitioner No. 1 was not an agriculturist. The respondent authority ought to have initiated appropriate action within reasonable time. Reasonable time has been defined in the case of *State of Gujarat v. Patel Raghav Natha & Ors.*, reported in 1969 GLR 992 (SC), especially Para 12 thereof, as

under:-

"12. The question arises whether the Commissioner can revise an order made under Sec. 65 at any time. It is true that there is no period of limitation prescribed under Sec. 211, but it seems to us plain that this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised."

The reasonable time has also been discussed and decided by the Hon ble Apex Court in the case of Mohamad Kavi Mohamad Amin V/s. Fatmabai Ibrahim, reported in 1997 (6) SCC 71, especially Para 2 thereof, as under :-

"2. Although, Mr. Bhasme, learned Counsel appearing for the appellant took a stand that under Sec. 63 of the Act aforesaid, there should not be any discrimination amongst the agriculturists with reference to the State to which such agriculturist belongs. But according to him even without going into that question the impugned order can be set aside on the ground that suo motu power has not been exercised within a reasonable time. Sec. 84C of the Act does not prescribe any time for initiation of the proceeding. But in view of the settled position by several judgments of this Court that wherever a power is vested in a statutory authority without prescribing any time-limit, such power should be exercised within a reasonable time. In the present case, the transfer took place as early as in the year 1972 and suo motu enquiry was started by the Mamlatdar in September, 1976. If sale-deeds are declared to be invalid the appellant is likely to suffer irreparable injury, because he has made investments after the aforesaid purchase. In this connection, on behalf of the appellant, reliance was placed on a judgment of Justice S. B. Majmudar (as he then was in the High Court of Gujarat) in State of Gujarat v. Jethmal Bhagwandas Shah disposed of on 1-3-1990, where in connection with Sec. 84C itself, it was said that the power under the aforesaid Section should be exercised within a reasonable time. This Court in connection with other statutory provisions, in the case of State of Gujarat V/s. Patil Raghav Natha and in the case of Ram Chand V/s. Union of India has impressed that where no time-limit is prescribed for exercise of a power under a statute it does not mean that it can be exercised at any time; such power has to be exercised within a reasonable time. We are satisfied that in the facts and circumstances of the present case, the suo motu power under Sec. 84C of the Act was not exercised by the Mamlatdar within a reasonable time. Accordingly, the appeal is allowed the impugned orders are set aside. No costs." (Emphasis supplied)

Thus, in the aforesaid case, there was delay of three years in issuing the Notice under Sec. 84C of the Bombay Tenancy and Agricultural Lands

Act, 1948 which notice was quashed and set aside and it was held that the powers were not exercised within reasonable period of time by the concerned Mamlatdar. Several other judgments has been cited by the learned Advocate for the petitioners pointing out reasonable period of time. This Court is not adding the number of judgments except aforesaid two important judgments.

(vi) It is vehemently submitted by the learned Advocate for the petitioner that the order passed by the Assistant Collector, Morbi (Annexure "H" to the memo of the petition) is patently de hors the provisions of Rule 108(6) of the Gujarat Land Revenue Rules, 1972. For the ready reference, the said Rule, reads as under :-

"108(6) The Collector may call for and examine the record of any enquiry or the proceedings of any subordinate revenue officer held under Rules 106, 107 and sub-rules (1) to (5) of this rule for the purpose of satisfying himself as to the regularity of such proceedings and as to the legality or propriety of any decision or order passed in such proceedings.

If, in any case, it shall appear to the Collector that any proceeding so called for or any decision or order made in such proceedings should be modified, annulled or reversed, he may pass such order thereon as he deems fit." (Emphasis supplied)

In view of sub-rule (6) of Rule 108, only Collector can call for and examine the records of any inquiry of any Subordinate Revenue Officer and not Assistant Collector, as has taken place in the present case. Thus, the impugned order passed by the Assistant Collector, Morbi is de hors the provisions of the Acts and the Rules. There is also a power vested in the State of Gujarat under Rule 108(6A) of the Gujarat Land Revenue Rules, 1972. The said sub-rule (6A) of the Rule 108 of the Gujarat Land Revenue Rules, 1972, reads as under :-

"108(6A). The State Government may call for and examine the record of proceedings in respect of any order passed by the Collector under sub-rule (5) of sub-rule (6) for the purpose of satisfying itself as to the regularity of such proceedings and as to the legality or propriety of any decision or order passed in such proceedings. If in any case, it appears to the State Government that any proceedings so called for or any decision or order made in such proceedings should be modified, annulled or reversed it may pass such order thereon as it deems fit;" (Emphasis supplied)

Thus, in view of the aforesaid provision of sub-rule (6A) of Rule 108 of Gujarat Land Revenue Rules, 1972, the order dated 10th July, 1993 passed by the Assistant Collector, Morbi (Annexure "H" to the memo of the petition) deserves to be quashed and set aside. It has been

decided by this Court in the case of Evergreen Apartment Co-op. Hos. Society V/s. Spl. Secretary, Revenue Department, Gujarat State, reported in 1991 (1) GLR 113 especially in Para 12, as under :-

"12. There is much substance in the second submission of Mr. Hawa also. Ordinarily, when a transfer of property takes place by a registered document, an entry is effected in the revenue record and it is certified by the Mamlatdar after making necessary inquiries. If there is any dispute regarding mutation, the dispute has to be entered in the register of the disputed cases and then such disputes are to be disposed of by the Mamlatdar. Under sub-rule (5) of Rule 108 of the Rules, the aggrieved party can prefer an appeal within 60 days from the date of the service of the order. The State Government has power to call for and examine the record of any enquiry of the proceedings of any subordinate Revenue Officer and to review the same under sub-rule (6) of the Rules. It is to be noted in the present case that no appeal had been presented within 60 days from the date of Mamlatdar's order certifying the initial entry. The Assistant Collector, Surat took the said entry in suo motu revision, even though he had no such power under the provisions of Rule 108. It, therefore, appears that the Additional Chief Secretary, Revenue Department remanded the proceeding to the Collector for treating the same as an appeal. This was done after a period of 4 years after the certification of the entry. It was only the State Government which had the power to call for a record of inquiry or proceeding under sub- rule (6) of Rule 108. Even the State Government was empowered to satisfy itself "as to the regularity of such proceedings and as to the legality or propriety of any decision or order passed in such proceedings". So, the entire inquiry and revisional power has to proceed under the Bombay Land Revenue Rules and not under any enactments like the Bombay Tenancy and Agricultural Lands Act, Urban Land (Ceiling and Regulation) Act or Bombay Prevention of Fragmentation and Consolidation of Holdings Act. It is quite possible that an officer of the Revenue Department may be

occupying different capacities under different enactments. That, however, would not empower him to exercise any powers under one enactment while proceeding under another enactment. So far as the proceedings under Rule 108 of the Rules, popularly known as R.T.S. proceedings, are concerned, it is well settled that the entries made in the revenue records have primarily a fiscal value and they do not create any title. Such mutations have to follow either the documents of title or the orders passed by competent authorities under special enactments. Independently, the Revenue Authorities, as mentioned in Rule 108 of the Rules, cannot pass orders of cancelling the entries on an assumption that the transaction recorded in the entry are against the provisions of a particular enactment. Whether the transaction is valid or not has to be examined by the competent authority under the particular enactment by following the procedure prescribed therein and by giving an opportunity of hearing to the concerned parties likely to be affected by any order that may be passed. Thus, on this second ground also, the orders of the Collector and the Additional Chief Secretary appear to be beyond their jurisdiction. The Additional Chief Secretary has held that the sale by auction was not consistent with the provisions of Sec. 27 of the Urban Land (Ceiling and Regulation) Act. Sec. 27 relates to prohibition of transfer of any urban land with a building thereon. Apart from legal position that Sec. 27 has been struck down as ultra vires, it is quite obvious that no such question of transferring urban land with a building thereon has ever arisen in the present case. Thus, the order of the revisional authority has proceeded on a misconception of relevant legal provisions also." (Emphasis supplied)

In view of the aforesaid judgment, powers exercised by the Assistant Collector, Morbi i.e. revisional power is violative of principle of Bombay Land Revenue Code, 1879 read with Gujarat Land Revenue Rules, 1972. This aspect of the matter has not been appreciated by the Collector, Rajkot as well as the State Government.

(vii) There is also an error committed by the authorities below while passing the impugned order. After granting the N.A. permission under Sec. 65 of the Code, 1879, the petitioner No. 1 has altered his position, expenditure has been incurred in the land bearing revenue Survey No. 1005 paiki and the land has been divided into 20 sub-plots, after sale of all these 20 sub-plots to several persons by registered sale-deeds. Once, the petitioner No. 1 has altered his position and has sold away the sub-plots especially when N.A. permission is granted (which is valid till today), it was not warranted for the respondent authority to issue Notice dated 12th November, 1992 under the Ordinance, 1949, read with Rule 108(6) of the Rules, 1972. The execution of the registered sale-deeds, upon receipt of the consideration makes the position of the petitioner No 1 so much altered, that now, it cannot be put back, if, at all, the impugned orders held valid and legal. Neither the mutation Entry No. 1800, which was certified on 23rd March, 1991, neither the N.A. use permission dated 22nd October, 1992 has been upset by the respondent authority. The division of the plot in 20 sub-plots, thereafter sale by registered sale deed to 20 persons etc. is due to investment in the land for its development. This aspect of the matter has not been appreciated by any of the authorities below as stated hereinabove. N.A. use permission is such non-transparent wall that once the N.A. use permission is given, the agricultural land cannot be seen by the respondent authority, except, through window of breach of any conditions of N.A. use permission. Once valid N.A. use permission granted for any land under Sec. 65 of the Bombay Land Revenue Code, 1879, it ceases to be agricultural land, and therefore, provisions of any Act, which are applicable to agricultural land are not applicable to such land, whether it is the Ordinance, 1949 or the Bombay Tenancy and Agricultural Lands Act, 1948 or the like. It has been held by this Court in the case of Bipinchandra G. Dalai & Anr. V/s. State of Gujarat & Anr., reported in 1987 (2) GLH 127 especially in Para 9 thereof, as under :-

"9 The Secretary (Appeals) has relied on two decisions of this Court, both rendered by S. H. Sheth, J. In the case of Kamalkhan Ajitkhan (supra), the Mamlatdar granted land to the petitioner on 3rd January, 1973 and the Assistant Collector issued notice under Sec. 211 of the Code on 21st January, 1975, that is, after a lapse of two years. Relying on the decision of the Supreme Court that the power must be exercised within a reasonable time, it was observed that reasonable time must depend on the facts and circumstances of each case. Taking note of the fact that the petitioner had not done anything on the wada land and the land had remained as it was during the said period of two years, this Court held that it was permissible to exercise revisional power as the same was not likely to cause any prejudice to the petitioners. In the case of Gulam Yasinmiya (supra), the order made by the Assistant Collector on 7th August, 1967 was sought to be revised after a lapse of almost three years by notice dated 27th October, 1970. Taking note of

the decision of the Supreme Court as well as this Court in Habib Nasir's case (supra), the learned Judge observed that since the period of reasonable time must depend on the facts and circumstances of each case, it would have been necessarily to seriously view the proposed action if the evidence had disclosed that after the land was granted to the petitioner, the petitioner had invested moneys in the land, developed it or had done something to develop it. In the absence of such evidence, this Court held that notwithstanding the lapse of time, since the proposed action was not likely to cause prejudice to the petitioner, the same must be upheld. Both these decisions do not pertain to exercise of revisional powers relating to permission granted under Sec. 65 of the Code. As pointed out earlier, cases governed by Sec. 65 read with Sec. 211 stand on a different footing and in view of the observations made by the Supreme Court extracted earlier, the power must be exercised within a few months from the date of permission. Besides, in the present case, the petitioners have averred that after the grant of permission, they have sold or entered into an agreement to sell the plot for the purpose of development and if the permission granted is belatedly cancelled, it would have a direct impact on the transaction entered into by the petitioners. Miss Shah, was therefore, right in contending that so far as the present two petitions are concerned, since the first respondent has not given any satisfactory explanation for the delay, this Court must hold that the power was not exercised within reasonable time. She submitted that in the present case, it is not the contention of the first respondent that any preliminary inquiry was made to determine whether these were fit cases for exercise of revisional power as in the batch of petitions, Special Civil Application No. 4530 of 1983 and allied matters disposed of today, and therefore, there is no explanation whatsoever why the power was not exercised promptly within a few months from 6th November, 1982. This is all the more so because in similar circumstances, the Secretary (Appeals) had while dealing with land in Block No. 18 admeasuring 2723 sq. yds., withdrawn the show-cause notice on the ground that the proposed action was delayed. I am inclined to agree with the submissions made by Miss Shah in this behalf." (Emphasis supplied)

In the facts of the case decided in the aforesaid judgment, after grant of N.A. use permission, the land was sold away, and thereafter, a notice was issued under the Bombay Land Revenue Code. This was not approved by this Court and the petition was allowed. In the present case, after grant of N.A. use permission, the land was sub-divided into 20 plots by investing

amount upon land for its development, thereafter, the land was sold away by registered sale- deeds and possession has also been parted with, and after lapse of three years, notice under Sec. 108(6) has been issued. There is no explanation for causing delay in issuance of the notice. Therefore, such belated action initiated by respondent is bad in law.

(viii) It is also pointed out by the learned Assistant Government Pleader that whenever there is a breach of Ordinance, the whole transaction is invalid, and therefore, purchase of Survey No. 1005 paiki by the petitioner is not accepted by this Court mainly for the reasons that mutation Entry No. 1800 reveals the fact that the petitioner was the owner of an agricultural land bearing revenue Survey No. 1137. This entry was also certified on 23rd March, 1991. Till today, no notice has been issued to upset or alter this mutation Entry No. 1800, and therefore, it cannot be said that the petitioner No. 1 was not an agriculturist. Looking to the impugned order passed by the Assistant Collector, Morbi (Annexure "H" to the memo of the petition) it is observed therein that the mutation Entry No. 1800 has been "cleverly" obtained by the petitioner No. 1. This observation was not warranted on the part of the Assistant Collector, Morbi, especially when there is no notice to upset mutation Entry No. 1800, and especially, when the said entry was certified, upon necessary inquiry on 23rd March, 1991. This aspect of the matter has not been appreciated by the authorities below, which affects the very root of the case. Thus, this is an error apparent on the face of the records.

(ix) It is also not appreciated by the authorities below that over and above Survey No. 1137, mutation Entry No. 1800 still there are other lands, which are agricultural in nature, purchased and owned by the petitioner No. 1 at Village : Vajepar, Taluka : Morbi, District : Rajkot. This aspect of the matter has not been appreciated by all the authorities below."

12. In light of settled position of law, the impugned notices dated 29.4.2019 and 23.7.2019 issued by the respondent No.2 – Mamlatdar and ALT, Kheda Tenancy Case No.2 of 2019 are barred by delay and laches having been issued beyond the

reasonable period, as referred to hereinabove, also several parcels of lands having been converted into N. A. Use with this passage of time, the inquiry under Section 84C of the Tenancy Act on the violation of Section 63 of the Act would not be applicable at such belated stage after a delay of more than 33 years for the first transaction of 1986. The notices dated 29.4.2019 and 23.7.2019 are required to be quashed and set aside and the same is quashed and set aside in exercise of powers under Article 226 of the Constitution of India.

13. The present petition stands allowed. Rule is made absolute.

(VAIBHAVI D. NANAVATI,J)

K.K. SAIYED

Original copy of this order has been signed by the Hon'ble Judge.

Digitally signed by: SAIYED KAZIMALI(HC00169), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 17/02/2026 16:16:18