

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 12337 of 2026**

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STATE OF GUJARAT

Versus

KALABEN MAHENDRAKUMAR KANAKIYA

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Appearance:

MR. CHIRAGKUMAR UPADHYAY, ASST. GOVERNMENT PLEADER for the
Petitioner(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE MAULIK J. SHELAT**Date : 03/09/2026****ORAL ORDER**

1. Heard Mr. Chiragkumar Upadhyay, learned AGP for the petitioner.
- State.

2. Learned AGP, under the instruction of his Officer, namely, Prakashsinh Chauhan, Deputy Executive Engineer, Irrigation Sub Division No.2, Amreli, would state that objections / reply filed by the petitioner below Exhibit-10 and 16 in the execution proceeding in question and without deciding such objections, the Executing Court vide its impugned order dated 04.05.2026 allowed the application of respondent - decree holder, filed below Exhibit-27 in the execution proceeding, whereby it has directed the petitioner to deposit sum of Rs. 27,53,216/- within 15 days from the date of the order.

2.1 Learned AGP would submit that without deciding the objections / reply of the petitioner, the Executing Court could not have passed impugned order. It is submitted that the impugned application below Exhibit-27 came to be filed on 02.05.2026 and before the petitioner could respond to the impugned application, impugned order came to be passed

on 04.05.2026.

2.2 Learned AGP would submit that considering the objections / reply of the petitioner, as such, no further amount is required to be paid to the respondent.

3. Having heard Mr. Chiragkumar Upadhyay, learned AGP for the petitioner and considering his submissions, *prima facie*, it appears that despite the objections / reply of the petitioner filed below Exhibit-10 and 16 in the execution petition in question, and without deciding such objection of the petitioner, the Executing Court appears to have passed impugned order on 04.05.2026 in the impugned application filed below Exhibit-27 by respondent - decree holder, whereby it has directed the petitioner to deposit sum of Rs.27,53,216/-. It further appears from bare reading of the impugned order that at given point of time, the assurance was given by the petitioner to deposit the amount as soon as the grant will be received from the State.

4. Without expressing further on the issue and considering the fact that objection raised by the petitioner being judgment debtor remained undecided by the Executing Court, *prima facie*, the Executing Court could not have passed impugned order, whereby directed the petitioner to deposit the aforesaid amount.

5. At the same time, considering the fact that the petitioner is facing impugned order, whereby it is required to deposit the amount, such amount can be ordered to be deposited by the petitioner, but same shall not be permitted to be withdrawn by the respondent.

6. In view of the aforesaid, the petitioner is hereby directed to deposit Rs.27,53,216/- on or before 28.09.2026, and on such condition, the impugned order dated 04.05.2026 passed by Principal Senior Civil Judge, Amreli (Executing Court) below Exhibit-27 in Special Execution Application No.15 of 2023 is stayed till next date of hearing.

6.1 In a case where the petitioner will fail to deposit the amount within stipulated time, the stay granted by this Court stands automatically vacated.

7. Issue ***Notice*** for final disposal, returnable on **29.09.2026**. Direct service is permitted. List on top of the board.

Lalji Desai

(MAULIK J.SHELAT,J)