

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 11523 of 2026**

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LIYAKATALI OSMAN NOTIYAR & ANR.**Versus****STATE OF GUJARAT & ORS.**

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Appearance:**MR. EKRAMA H QURESHI(7000) for the Petitioner(s) No. 1,2****MR ADITYA PATHAK ASST. GOVERNMENT PLEADER for the
Respondent(s) No. 1**

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 13/08/2026****ORAL ORDER**

1. Heard learned advocate Mr.Ekrama Qureshi for the petitioners and learned AGP Mr. Aditya Pathak for respondent – State.

2. By way of this petition, the petitioners challenge notice/order dated 11.08.2026 whereby the respondent No.3- Taluka Development Officer, has *inter alia* informed the petitioners as regards the intend of the Taluka Development Officer to demolish the property of the petitioners on 14.08.2026 at 9:00 a.m. Perusal of the order *inter alia* reveals the opinion of the Taluka Development Officer that the petitioners, are encroachers of the property in question and

whereas the entire property as per the TDO, appears to be in dilapidated condition and though permission for construction had been taken, there does not appear to be any construction carried out by the petitioners.

3. As against the same, attention of this Court is drawn to the communication dated 05.08.2025 by the Gram Panchayat to the TDO, in response to the certain queries by the TDO and whereas it is *inter alia* informed to TDO that the land in question belongs to forefather of the petitioners and whereas the petitioners viz, father and son themselves are occupying the property in question. It is informed by the Gram Panchayat that there has been no encroachment whatsoever by the petitioners on the land in question and whereas the complainant, is unnecessarily creating problems. In the second communication, the said aspect is further reiterated and whereas it would appear that the petitioners, appear to have constructed according to Gram Panchayat on the property in question after obtaining permission from the Gram Panchayat.

4. Prima facie, it appears to this Court that two diverse views are presented before this Court insofar as the impugned orders/notices concerned where the Taluka Development Officer is of the opinion that the petitioners have encroached the

property in question and whereas the Gram Panchayat *inter alia* being of the opinion that the petitioners are owners of the property in question and whereas the petitioners have not committed any encroachment/un-authorised construction on the property in question.

5. Having regard to such a prima facie opinion, it would appear that the issue requires clarification at the end of the Taluka Development Officer before any coercive steps are taken.

6. Hence, issue **Notice** to the respondents returnable on **03.09.2026**. Learned AGP Mr. Pathak waives service of notice on behalf of respondent – State.

7. Direct service to rest of the respondents is permitted.

8. Till the returnable date, there shall not be any coercive steps taken against the property in question by the respondent - Taluka Development Officer.

(NIKHIL S. KARIEL,J)

NAIR SMITA V./01-SB-II