

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 14384 of 2025****RABARI NAGABHAI JETHABHAI VANDA****Versus****STATE OF GUJARAT & ORS.****Appearance:****MS VIDHI J BHATT(6155) for the Petitioner(s) No. 1****MS NALANDA ACHARYA AGP for the Respondent(s) No. 1,2****CORAM:HONOURABLE MRS. JUSTICE MAUNA M. BHATT****Date : 15/10/2025****ORAL ORDER**

1. This petition is filed seeking to quash and set aside the show cause notices dated 30.04.2025 (Annexure A page 42) and 05.05.2025(Annexure B page 43) issued under Section 105 of the Gujarat Panchayat Act, 1993 (“the Act” for short).

2. Heard learned advocate Ms.Vidhi Bhatt for the petitioner. Learned advocate submitted that the petitioner herein is managing and in possession of Hanuman Temple having idols of Lord Hanuman situated at land bearing Survey No.496 (old survey No.174/1A1) admeasuring about 67 sq.mtrs in village Roghada, Taluka Kutiyana, District Porbandar (hereinafter referred to as property in question). Learned advocate

submitted that the said property was in possession of the petitioner's forefathers and inherited by him. Thus it is his ancestral property as old as 800 years. The petitioner had also made a representation dated 05.08.2020, to the State Government to consider and declare the said property as an ancient monument. On account of long possession of land and deity, request to mutate the land in question in name of the petitioner was also made. Despite that, without having any decision on the representation of the petitioner dated 05.08.2020 (Annexure H page 70), notices dated 30.04.2025 and 05.05.2025 were issued. Learned advocate Ms.Bhatt submitted that under the provisions of Section 105 of the Gujarat Panchayat Act, the Panchayat has powers to permit construction on a Government land. It is true that in the revenue record, the land in question is referred as a Gauchar land, however, the petitioner's case can be considered under sub section (3) of Section 105. Moreover, the petitioner now is apprehending the action pursuant to the notice earlier issued and therefore, this petition is filed.

3. Opposing the petition, learned AGP Ms.Nalanda Acharya invited attention of this Court revenue record at page 57 to submit that the land in question is a Gauchar land and on Gauchar land, construction is not permissible. Moreover, not a

single document is produced on record which justifies the occupation/possession of the property in question with the petitioner. Even if the petitioner is occupying the said property long occupation would not establish any ownership right over Gauchar land. Moreover, the communication dated 30.04.2025 was in consonance with the directives of Hon'ble Supreme Court and the same is referred in paragraph No.2 of the said communication. Therefore, there is no illegality in the notices dated 30.04.2025 and 05.05.2025.

4. Having considered the submissions and the documents on record, it is noticed that the land in question on which Hanuman Temple is situated is a Gauchar land. The revenue record reflects the land in question as a Gauchar land. Admittedly, on Gauchar land, no construction is permissible. For long possession of the land and temple, reliance is placed by the petitioner on some writing '1268' without any proof in support. Moreover, long possession or occupation shall not establish right over the property. Further, in the notice of the respondent dated 30.04.2025, the reference of decision of the Hon'ble Supreme Court is made whereby, appropriate action is proposed to remove religious structure on public places or Gauchar land. The said notice is followed by another notice dated 05.05.2025 under Section 105 of the Act. It is seen that

prior to the said notices, the petitioner had made representation dated 05.08.2020 and reply to the notice dated 14.05.2025, was also filed. Therefore, in view of reply dated 14.05.2025, the respondents are directed to take action after taking decision on reply dated 14.05.2025 which is pending at this stage.

5. This Court has not gone into the merits of the matter and it is open for the respondents to pass an order considering the representation of the petitioner dated 05.08.2020 or reply dated 14.05.2025.

6. Till the decision is taken on the representation dated 05.08.2020 or reply dated 14.05.2025, no coercive action is directed. Parties to cooperate.

7. With this, the present petition is disposed of.

8. Direct service is permitted.

**(MAUNA M. BHATT,J)**

NAIR SMITA V./13

Original copy of this order has been signed by the Hon'ble Judge.  
Digitally signed by: SMITA VINU NAIR(HC00186), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 16/10/2025 12:48:45