

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 13294 of 2025**

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MANOJBHAI SOMABHAI BHAVSAR

Versus

THE COMPETENT AUTHORITY AND SPECIAL LAND ACQUISITION OFFICER & ORS.

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Appearance:

MR ARPIT A KAPADIA(3974) for the Petitioner(s) No. 1

MR SHAILESH DESAI, AGP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT**Date : 25/09/2025****ORAL ORDER**

1. At the outset, learned advocate Mr. Arpit Kapadia would request this Court to allow the petitioner to add State of Gujarat as one of the party respondent, because of the impugned order, the amount awarded/deposited by the Competent Authority under Section 3H(4) of National Highways Act, 1956 (herein after referred as "the Act, 1956") is going to be paid to the State. It is submitted that before the Principal Civil Court, before whom, the dispute so adjudicated as per said provision of law, State of Gujarat was not made party as neither one of the objector nor beneficiary, thus, not joined in this writ application when filed.

2. So, considering the aforesaid facts and request made by the learned advocate Mr. Kapadia for the petitioner and

after examined the issue in this regard, permission as sought for, is hereby granted. Accordingly, 'State of Gujarat' is joined as party respondent No.6 in this writ application. Necessary amendment be carried out forthwith.

3. Heard learned advocate Mr. Arpit A. Kapadia for the petitioner and learned Assistant Government Pleader Mr. Shailesh Desai for the respondent-State, appeared on advance copy for respondent No.1 & 6 – newly added respondent.

4. Learned advocate Mr. Kapadia would states that the impugned order passed by the Principal Civil Court under Section 3H(4) of the Act, 1956, would be in complete ignorance of the facts as well as documentary evidence on record which resulted into miscarriage of justice.

4.1 Learned advocate Mr. Kapadia would further states that undisputedly the petitioner herein is purchaser of the suit land vide registered sale-deed dated 07.08.2012 and his name as well mutated in the revenue record (Form No.6 Record of Right). It is submitted that respondent No.1 herein initiated land acquisition proceeding as per provisions of the Act, 1956 and passed an award. It is further submitted that feeling aggrieved and dissatisfied with less compensation

awarded to the petitioner herein being owner of suit land, he preferred an appeal before the learned Arbitrator i.e. Collector as per the provisions of the Act, 1956, which came to be decided in his favour, whereby, the award was substantially enhanced in favour of the petitioner vide learned Arbitrator's judgment and award dated 14.10.2021.

4.2 Learned advocate Mr. Kapadia would further submit that until such time, no objections from any corner as regards entitlement of compensation from anyone including the respondents No. 2 to 6 herein have been raised before the Competent Authority under the Act, 1956.

4.3 Learned advocate Mr. Kapadia would further submit that when learned Arbitrator has enhanced the awarded amount substantially, legal heirs of erstwhile owner of the land in question who already sold the such land to the predecessors of the petitioner way back in the year 2005, first time raised an objection and requested not to release the awarded amount in favour of the petitioner. It is submitted that as per Section 3H(4) of the Act, 1956, the Competent Authority referred the matter to the concern Principal Civil Court. It is further submitted that initially, it was referred/submitted before the learned Senior Civil Judge, who was not competent to adjudicate the dispute

between the parties being not the Principal Civil Court. So, this Court, vide its order dated 20.01.2025 passed in Special Civil Application No. 8788 of 2024, remanded the matter back to the Principal Civil Court to decide and adjudicate the dispute in accordance with law.

4.4 Learned advocate Mr. Kapadia would further submit that on remand, the Principal Civil Court having decided the dispute inter-se between the parties but erroneously held that State Government is lawful owner and exclusively entitle to receive the amount of compensation/award. It is respectfully submitted that when the petitioner is purchaser of land by way of registered sale-deed and his name was mutated in the revenue record, it would be highly improper on the part of the Principal Civil Court to grant compensation in favour of the State of Gujarat, which in fact not even an objector or the party to such dispute raised before the Court. It is submitted that no such request/relief even prayed by private respondents.

4.5 Learned advocate Mr. Kapadia would also drawn the attention of this Court that during the pendency of such dispute before the Principal Civil Court, private respondents herein have challenged the transaction of the petitioner as well their predecessors before the concerned revenue

authority, contending inter-alia that such purchases would hit by Section 73AA of Gujarat Land Revenue Court, Act, 1879, (hereinafter referred to as 'the Act, 1879').

4.6 Learned advocate Mr. Kapadia would further submit that aforesaid attempt made to frustrate the decade old transactions executed by legal heirs of erstwhile owner. It is submitted that such proceeding would not be sustainable in law. It is stated that one of such appeal though rejected on the ground of delay filed by one of such legal heirs of erstwhile owner, but strangely, another two appeals filed by same branch of legal heirs of erstwhile owner have been entertained by the Deputy Collector, vide its order dated 17.02.2025, wherein all revenue entries which are mutated pursuant to the first sale taken place in the year 2005 till last one i.e. purchased by the petitioner are ordered to be cancelled. It is further stated that petitioner has immediately approached the concerned Appellate Revenue Authority, wherein as on date, the matter is pending at large.

4.7 Learned advocate Mr. Kapadia would further submit that despite the fact and so also noticed by Appellate Revenue Authority that there is a gross delay on the part of the private respondents herein to approach the Revenue Authority complaining about the transactions in question,

the Revisional Authority has not given any protection to the petitioner, against which, the petitioner has already preferred the Revision before the learned Special Secretary Revenue Department (SSRD), Ahmedabad.

4.8 Making the above submissions, learned advocate Mr. Kapadia would submit that the impugned order passed by the Principal Civil Court requires to be interfered by this Court while exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

5. Per contra, learned Assistant Government Pleader Mr. Shailesh Desai appearing for Authority & State would submit that as per record, as on date, the entries which are certified in favour of the petitioner stand cancelled by the competent Revenue Authority, thereby, the petitioner is not entitle to receive any compensation. Nonetheless, learned AGP would candid in his submission that before the Principal Civil Court, the State of Gujarat was not made party and not objected in any way in relation to disbursement of awarded amount so deposited by the competent authority under the Act, 1956.

6. Having heard learned advocate Mr. Kapadia for the petitioner and learned Assistant Government Pleader Mr. Desai at length, prima-facie, after appreciating the

submissions so canvassed by the learned advocate for the petitioner, following emerges;

6.1 The petitioner herein is registered sale-deed holder for the land in question. It remains undisputed on record that names are also mutated in the revenue record (Form No. 6 - Record of Right), whereby name of petitioner mutated in such record.

6.2 The compensation so fixed by the Competent Authority under Section 3H(4) of the Act, 1956 was questioned only by the petitioner and not other private respondents herein before the Arbitrator so appointed under the Act, 1956.

6.3 The beneficiary of an award of Arbitrator would be only petitioner as such additional award passed only in favour of petitioner.

6.4 It also undisputed that once such additional award passed by the Arbitrator, the private respondents herein flung into action having raised their dispute before the competent authority against release / disbursement of awarded amount in favour of the petitioner.

6.5 So, the competent authority appears to have sent such

lis to the Principal Civil Court inadvertently before the Principal Civil Judge instead of District Court, which was initially corrected by this Court.

7. When such would be the case, prima-facie, it would be very strange to see that how the Principal Civil Court can reject the contention of the petitioner, and instead of deciding the lis between the parties to the dispute, strangely it directed to release the amount of compensation so awarded under the Act, 1956 to the State, who never be an objector or beneficiary of award in any manner whatsoever.

8. At the same time, the fact remains that before passing of impugned order, the competent Revenue Authority vide its order dated 17.02.2025 set aside the mutation entry in favour of the petitioner and their predecessors at the instance of appeals filed by the private respondents herein. The legality and validity of such orders passed by the Revenue Authority is subject matter of pending writ large in appeal/revision before the competent Revenue Authority filed at the instance of the petitioner.

9. At this stage, this Court would not like to dwell itself into such an issue as regards the legality and validity of such orders passed by the Revenue Authority.

10. Nevertheless, in view of aforesaid facts and circumstances, award amount could not have been ordered to be disbursed in favour of State, having so done by Principal Civil Court, vide its impugned order.

11. In view of the aforesaid, the matter requires serious and in-depth consideration. Hence, Issue **Rule** returnable on 24.11.2025. For the above said facts and reasons, ad-interim relief in terms of Para-8(C) is granted.

12. Further, the awarded amount so deposited by the Competent Authority under Section 3H(4) of the Act, 1956, if lying with the Principal Civil Court concerned or in a case where not deposited than lying with competent authority as the case may be, it is hereby directed to the Principal Civil Court or competent authority as the case may be, to invest such awarded/deposited amount in cumulative Fixed Deposit Receipt in any Nationalized Bank, initially for a period of One year, which shall be renewed from time to time till further order passed by this Court. The FDR shall be in the name of Registrar or Nazir of Principal Civil Court and shall be retained by such official till further order passed by this Court.

(MAULIK J.SHELAT,J)

SALIM/

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MOHAMMAD SALIM(HC01108), STENO GR II, at High Court of Gujarat on 26/09/2025 12:59:55