

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 16711 of 2024**

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RAMILABEN JAYNEDRABHAI SHAH & ORS.

Versus

COLLECTOR SABARKANTHA & ORS.

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Appearance:

MR SUDHIR I. NANAVATI, SR. ADVOCATE WITH MR VANDAN K

BAXI(5863) for the Petitioner(s) No. 1,2,3,4

NANAVATI & NANAVATI(1933) for the Petitioner(s) No. 1,2,3,4

MR NIKUNJ KANARA, AGP for the Respondent(s) No. 1,7,8

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 29/01/2025****ORAL ORDER**

1. Heard learned Senior Advocate Mr. Sudhir I. Nanavati with learned Advocate Mr. Vandan Baxi for the petitioners and learned AGP Mr. Nikunj Kanara for the respondent-State.

2. By way of this petition, the petitioners challenge an order dated 05.09.2018 passed by the SSRD in Revision Application No. 43 of 2018, whereby challenge by the petitioners to order of Collector, Sabarkantha dated 20.02.2018, has been rejected.

3. Considering the submissions made by learned Senior Advocate Mr. Nanavati and having perused the documents on record, it would prima facie appear that the present petition is based on a peculiar set of facts, which would persuade this Court to interfere at this stage, inspite of the apparent delay. It would appear that the case of the petitioners was that an entry, in the revenue record, being entry No. 4817 pertaining to village Harsol, Taluka Talod, which had been mutated in the revenue record on

27.03.2016, had been mutated on basis of a fraud, more particularly the contention on behalf of the petitioners being that the late father of the petitioners is shown to have relinquished his rights in the land in question in favour of the respondent No.2 herein i.e. his brother. The late father of the petitioners is stated to have expired in the year 2013, at which time, the petitioners had tried to incorporate their names in the revenue record when they realized that their late father had allegedly relinquished his rights in the property in question.

3.1 It appears that the petitioners had inter alia filed a police complaint claiming that the signature in the alleged relinquishment deed was different from the original signature which their late father used to put. It would also appear that while the police authorities were looking into the complaint of the petitioners, the petitioners had also sought to question certification of entry No. 4817 and whereas vide an order dated 08.06.2015, the Additional Collector, Prantij, had rejected the appeal preferred by the present petitioners on the ground of unexplained delay. It would appear that challenge to the said order, passed by the Additional Collector, before the Collector, also did not meet with any success. The order of the Collector being challenged before the SSRD and as noted hereinabove vide the impugned order dated 05.09.2018, on the ground of unexplained delay, the SSRD has rejected the said revision application.

3.2 On the other hand, it appears that the police authorities had submitted the alleged signature of late the father of the petitioner put in the alleged relinquishment deed for verification by the Directorate of Forensic Science, and whereas while an opinion had been sent by the Directorate of Forensic Science to the concerned authority that the signature of the late father of the petitioners in the alleged relinquishment deed was not the actual signature of the late father as compared with the

signature which is regularly put by the late father of the petitioners. It appears that though such report had been made available to the Investigating Authority, copy thereof had not been supplied to the petitioners, whereupon, the petitioners had sought for the same under the RTI and vide communication dated 24.01.2024, the same appears to have been given to the petitioners. Thus, it would prima facie appear to this Court that the relinquishment of right by the late father of the petitioners in favour of the petitioners in favour of the respondent No.2 herein, appears to be fraudulent. It also appears that the petitioners have got a justifiable cause for not approaching this Court in time, since the petitioners appear to have approached this Court within reasonable time after the opinion of the Directorate of Forensic Science had been given to the petitioners under the Right to Information Act. It would also appear that the delay in approaching the revenue authorities starting from the Deputy Collector would be covered by the principle of fraud vitiating everything.

4. Having regard to the above prima facie observations, issue **Notice** to the respondents returnable on **27.02.2025**. Learned AGP waives service of notice for respondent No.8-State. Direct service for rest of the respondents is permitted.

5. By way of ad-interim relief, parties are directed to maintain status quo with regard to the land as well as the revenue records in question.

(NIKHIL S. KARIEL,J)

BDSONGARA