

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/MISC. CIVIL APPLICATION (FOR CONTEMPT) NO. 2746 of 2025****In****R/SPECIAL CIVIL APPLICATION/11483/2025**

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MASTER SILK MILLS PRIVATE LIMITED**Versus****PRATIBHA DAHIYA, SUB DIVISIONAL MAGISTRATE**

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Appearance:**MR PERCY KAVINA, LD.SR.ADV WITH MR VIRAL K SALOT(3500) for the****Applicant(s) No. 1****MR G.H.VIRK. LD.GP WITH MS DHARITRI PANCHOLI, AGP for the****Opponent(s) No. 1**

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA**and****HONOURABLE MR. JUSTICE L. S. PIRZADA****Date : 07/05/2026****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)**

1. Heard learned Senior Advocate Mr.Percy Kavina assisted by learned advocate Mr.Viral K. Salot for the applicant and learned Government Pleader Mr.G.H.Virk assisted by learned Assistant Government Pleader Ms.Dharitri Pancholi for the respondent.

2. By this application, the applicant-original petitioner has prayed for the following reliefs :

“The Honourable Court be pleased to hold that the opponent herein is liable for the Contempt of Court by willful, intentional and deliberate flouting of the order passed by this Honourable Court dated 16/09/2025 passed in Special Civil Application No. 11483 of 2025 and be further pleased to pass order of appropriate punishment to the opponents for the offence under the provisions of the Contempt of Court's Act, 1971.”

3.1. The brief facts of the case are that the applicant-original petitioner was given the leasehold rights of the land of Survey No.333 of Village Juna Vadva, Bhavnagar establishing the artificial cloth factory by Hazoor Order No.450 by erstwhile ruler of the State of Bhavnagar.

3.2. After the independence, the land was vested in the Bhavnagar Municipality and in the year 1965, Bhavnagar Municipality executed a lease-deed in favour of the applicant-Company, whereby, the land admeasuring about 11 vigha, 5 guntha (18308 Sq.Mtrs) of Survey No.333/2 was given to the applicant for establishing artificial silk weaving mill at Bhavnagar. Clause (iv) of paragraph No.3 of the lease-deed stipulated the use of the premises for industrial purpose.

3.3. The lease-deed dated 25th November, 1965 was modified by another deed dated 15th October, 1990 and the applicant-Company was permitted to use the land admeasuring 19225.44

sq.mtrs out of Survey No.333/2 for commercial and industrial purpose and for such other small industries.

3.4. It is the case of the applicant that as it was not feasible to run a textile mill on the subject land, the applicant decided to shift to another business of diamond cutting and therefore, requisite permission for development of the land was sought, which was granted on 13th November, 2000.

3.5. The respondent-Collector thereafter, issued a show-cause notice to the applicant-Company as well as Bhavnagar Municipal Corporation calling upon them to show cause as to why the proceedings for breach of condition

qua the change of use of the land should not be initiated.

3.6. After considering the reply filed by the applicant, the respondent-Collector passed an order dated 27th August, 2003, whereby, the names of the applicant as well the Bhavnagar Municipal Corporation were ordered to be deleted from the revenue record and the land was ordered to be vested in the State Government. The applicant challenged the said order dated 27th August, 2003 by preferring Special Civil Application No.14546 of 2003 before this court which was allowed by the Judgment and Order dated 3rd July, 2017.

3.7. Being aggrieved by the said order,

Letters Patent Appeal No.992 of 2023 was filed on 14th June, 2021, which was also dismissed vide Judgment and Order dated 24th July, 2023.

3.8. It appears that in the meantime, the City Survey Limit of Bhavnagar was extended and the subject land is covered within the city area of the Bhavnagar and was renumbered as City Survey No.5174 in Ward No.7 of the City Survey Office of Bhavnagar City-2 and the Entry No.26683 was mutated in the property card on 21st March, 2024 and Certified on 17th May, 2024.

3.9. It is the case of the applicant that the applicant was required to transfer the leasehold rights and since, the property is

situated within the area notified as Disturbed Area and therefore, an application dated 18th May, 2025 was made before the respondent-Sub Divisional Magistrate, Bhavnagar to grant permission under the provisions of the Disturbed Area Act (The Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991).

3.10. However, while exercising the power of the Collector under the Disturbed Area Act, the said application was not granted by the respondent sub Divisional Magistrate by order dated 7th July, 2025 on the ground that the Special Leave Petition, before the Hon'ble Supreme Court challenging the order dated 24th

July, 2023 passed by this Court in Letters Patent Appeal No.992 of 2023, is to be filed.

3.11. Being aggrieved, the applicant preferred Special Civil Application No.11483 of 2025, challenging the order dated 7th July, 2025 rejecting the application of the petitioner to grant permission under the Disturbed Area Act by the respondent.

3.12. This Court, vide order dated 16th September, 2025 allowed the Writ Petition filed by the applicant, quashing and setting aside the order dated 7th July, 2025 relying upon the decision of this Court in case of **Onali Ezazuddin Dholkawala Versus State of Gujarat** rendered in Special Civil Application

No.13041 of 2019.

3.13. It is the case of the applicant that the order dated 16th September, 2025 passed by the learned Single Judge was served upon the respondent, however, again without appreciating the directions issued by this Court, no permission was granted on the ground that the Special Leave Petition, challenging the order dated 24th July, 2023 passed by this Court in Letters Patent Appeal No.992 of 2023, is pending. The applicant was served with the order dated 28th October, 2025 refusing to grant the permission on the aforesaid ground.

3.14. Being aggrieved, the applicant has preferred this application for initiation of

the contempt proceedings against the respondent for not complying with the orders passed by this Court.

4.1. Learned Senior Advocate Mr. Persy Kavina appearing for the applicant submitted that the respondent has committed the contempt of the order of this Court by not complying the same and refusing to grant the permission reiterating the same reason, which was the subject matter of the Writ Petition filed by the applicant.

4.2. This Court therefore issued the notice in the matter on 1st December, 2025 by passing the following order :

"1. Heard learned Senior Advocate

Mr.Percy Kavina with learned Advocate Mr.Viral K. Salot for the applicant.

2. It was submitted that in spite of the order dated 16.09.2025 passed by the learned Single Judge in Special Civil Application No.11483 of 2025 directing the respondent to consider the application filed by the applicant on 21.05.2025 afresh, keeping in mind the provisions of the Disturbed Areas Act, 1991 as well as the decision of this Court in the case of Onali Ezazuddin Dholkawala v. State of Gujarat rendered in Special Civil Application No.13041 of 2019 decided on 09.03.2020, the respondent has again by relying upon Section 52 of the Transfer of Property Act, 1882 without reference to the provisions of the Disturbed Areas Act, 1991 and the above decision, reiterated the order rejecting the application

filed by the applicant.

3. It was therefore submitted that the respondent has committed contempt of the order passed in the Special Civil Application by not following the directions issued by this Court.

4. Considering the above submissions, issue notice returnable on 18.12.2025.

5. Direct service is permitted."

4.3. In response to the notice issued by this Court, an affidavit was filed by the respondent, whereby, it was contended that the order dated 28th October, 2025 was withdrawn on 8th January, 2026 and following averments were made in the paragraph No.7 of the affidavit which reads as under :

“7. I respectfully submit that Deponent has withdrawn the order dated 28.10.2025 on 08.01.2026. It is further submitted that the Deponent herein will properly consider the provisions of the Disturbed Areas Act as well as the decision of this Hon'ble High Court passed in the case of Onali Ezazuddin Dholkawala i.e. Special Civil Application No.13041 Of 2019, for deciding the application of the Petitioner. I further submit that fresh opportunity of hearing will be given to the Petitioners and will decide the aforesaid application of the Petitioners in accordance with law within 3 to 8 weeks. Annexed hereto and marked as Annexure R1 is the copy of the order dated 08.01.2026.”

4.4. Thereafter, another affidavit was filed tendering the unconditional apology by the

respondent, affirmed on 5th March, 2026, along with the order dated 5th March, 2026 wherein, the respondent has again rejected the application giving the other reason, on the ground that the State Government is the owner of the land and therefore, the applicant has no right, title or interest in the land and observations made in paragraph No.10 of the order passed in Letters Patent Appeal No.992 of 2023 was referred to in the order.

4.5. Learned Senior Advocate Mr.Percy Kavina for the applicant submitted that the respondent has indulged into deliberate attempt to overreach the order passed by this Court by misquoting the observations, resulting in disobedience of the order passed

by the Court. Learned Senior Advocate Mr.Percy Kavina referred to the averments made in the affidavit-in-rejoinder of the applicant to point out the malafide stand of the respondent in the order dated 5th March, 2026.

4.6. On the other hand, learned Government Pleader Mr.G.H.Virk appearing for the respondent submitted that the order dated 5th March, 2026 is passed taking into consideration the merit matter and on objective basis.

4.7. At that stage, learned Senior Advocate Mr.Percy Kavina for the applicant submitted that a fresh application would be filed by the applicant, which may be considered and fresh

order may be passed.

4.8. Accordingly, the applicant preferred another application on 13th March, 2026 seeking permission under the provisions of the Disturbed Areas Act for transfer of leasehold rights in the subject land.

4.9. The respondent decided the said fresh application submitted by the applicant vide order dated 25th March, 2026 on the terms and conditions granting the permission and the same is placed on record along with the additional affidavit-in-reply affirmed on 25th March, 2026.

4.10. The respondent has made following averments in the additional affidavit-in-reply

dated 25th March, 2026, which read as under ;

"1. I most respectfully submit that the deponent holds this Hon'ble Court in the highest esteem and has the utmost respect for the orders passed and directions issued by this Hon'ble Court. The deponent has never intended to disobey or disregard any order or direction issued by this Hon'ble Court.

2. I humbly submit should this Hon'ble Court find any deficiency or lapse in compliance, the deponent most respectfully tenders her sincere and unconditional apology.

3. I respectfully submit that the applicant has filed the present contempt application alleging non-compliance of the order dated 16.09.2025 passed by the Hon'ble Single

Judge in Special Civil Application No. 11483 of 2025.

4. I state and submit that earlier the answering respondent has passed orders dated 28.10.2025, 05.03.2026 and 24.03.2026. The answering respondent respectfully submits that all these orders have been withdrawn by the answering respondent and passed a new modified order dated 25.03.2026 deciding the application dated 13.03.2026 made by the applicant for seeking permission under the provisions of "THE GUJARAT PROHIBITION OF TRANSFER OF IMMOVABLE PROPERTY AND PROVISION FOR PROTECTION OF TENANTS FROM EVICTION FROM PREMISES IN DISTURBED AREAS ACT, 1991." The copy of the modified order dated 25.03.2026 is annexed herewith and marked as Annexure-RI.

5. I respectfully submit that the order dated 25.03.2026 is passed in compliance of the directions issued by the learned Single Judge of this Court. I say and respectfully submit that the directions of the Hon'ble Single Judge have been followed in letter and spirit.

6. The answering respondent most humbly and respectfully tenders an unconditional and sincere apology for causing inconvenience to the Hon'ble Court. I say and submit that the answering respondent will be more cautious and diligent in considering the issues on hand and passing orders while performing her duties in the future. In these circumstances, it is most humbly prayed before this Hon'ble Court to drop the contempt proceedings in interest of justice."

5.1. Learned Senior Advocate Mr. Percy Kavina for the applicant submitted that in view of the aforesaid order dated 25th March, 2026, the grievance of the applicant is redressed, however, he referred to and relied upon the decision in case of ***State of Gujarat Versus The Secretary, Labour, Social Welfare & Tribal Development Department, Sachivalaya, Gandhinagar and Another*** reported in ***(1982) 23 (1) GLR 61*** wherein, the Division Bench of this Court, after considering the legal position with regard to initiation of the proceedings under the Contempt of Courts Act, has observed as under :

“17. Under Article 215 it has been provided that every High Court shall be

a court of record and shall have all the power of such a court including the power to punish for contempt of itself. Under section 22 of the Contempt of Courts Act, 1971, it has been provided that the provisions contained in the Act shall be in addition to, and not in derogation of, the Divisions of any other law relating to contempt of courts. However, since we have found that there was both civil and criminal contempt as defined in the Contempt of Courts Act, 1971 it is not necessary for us to examine the question regarding the contempt of Court of this High Court, power in respect of which has been preserved by Article 215 of the Constitution. The power under the Contempt of Courts Act is in respect of punishing for the contempt of the High Court as well as of any Court subordinate thereto, because section 11

points out that the High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits, but under Article 215 power of punishing for contempt of the High Court itself is conferred upon the High Court. In the instant case, we have come to the conclusion that there is contempt of High Court but in view of the penalty which we are imposing under section 12 of the Contempt of Courts Act, we do not think it necessary to consider the question of punishing the respondents under powers conferred by Article 215 of the Constitution. Hence, in our opinion, ends of justice will be

met by imposing the penalty of a fine of one hundred rupees on the second respondent and a fine of one hundred rupees on the first respondent, namely, Secretary, Labour and Social Welfare and Tribal Development Department, Sachivalaya, Gandhinagar. Orders accordingly."

5.2. Referring to the above observation made by the Division Bench of this Court, it was submitted by learned Senior Advocate Mr. Percy Kavina that the respondents ought to have passed the order granting permission in compliance of the directions issued by this Court instead of passing the different order, during pendency of this application, and such practice may be deprecated.

6. Having heard the learned advocates for the parties and having considered the facts of the case, as the respondent has already passed an order granting permission to the applicant under the provisions of the Disturbed Area Act in accordance with law, there is a compliance of the order dated 16th September, 2025 passed in Special Civil Application No.11483 of 2025. However, we would like to observe that the conduct of the respondent, during pendency of this application, is not proper, befitting to the Government Officer and with a word of caution to the respondent, to obey and comply with the order of this Court forthwith, we dispose of this application.

(BHARGAV D. KARIA, J)

(L. S. PIRZADA, J)

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