

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 16372 of 2025**

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PATEL BABUBHAI MATHURBHAI & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR. ALKESH N SHAH(3749) for the Petitioner(s) No. 1,2,3,4

MR ANGESH PANCHAL AGP for the Respondent(s) No. 1,2,3,4

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CORAM:**HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

Date : 30/04/2026

ORAL ORDER

1. RULE. Learned Assistant Government Pleader waives service of notice of rule on behalf of respondents.

2. With the consent of learned counsel for the respective parties, the present petition is taken up for hearing and disposal.

3. Present petition is filed by the petitioners under Articles 226 and 227 of the Constitution of India and under the provisions the Gujarat Stamp Act seeking the following reliefs:-

(A) *YOUR LORDSHIPS may be pleased to issue a writ of mandamus of any other appropriate writ order or directions in the form of Mandamus or any other appropriate writ quashing and setting the orders passed by the respondent No.1 and respondent No.2 dated 2-9-25 and 17.11.11 and recovery notice dated 16-5-25 and 29-10-25 issued by the respondent No.4 as the same being illegal, arbitrary and colorable exercise of power.*

- (B) *YOUR LORDSHIPS may be pleased to issue writ of mandamus or any other appropriate writ order or directions in the form of mandamus or any other appropriate writ pending admission and final disposal of this petition, the respondents, their agents and/or any one on behalf of the respondents more particular respondent No.4 i.e. Recovery Officer be restrained from taking any further steps in accordance with the order dated 17-11-11 and the respondents be further directed to maintain status-quo.*
- [C] *YOUR LORDSHIPS may be pleased to pass such other or further order relief in the facts and circumstances of the case.*

4. Short facts of the present case are that the petitioners purchased non-agricultural land admeasuring 11114.32 square meters at Moje Himmatnagar for industrial business purpose and the sale document valued at Rs.3,50,000/- was presented for registration before the Sub Registrar, Himmatnagar. It is the case of the petitioners that the Deputy Collector has, while passing the order, held that consideration as mentioned in the sale deed was not equivalent to the market value under Section 32-K of the Gujarat Stamp Act and the stamp duty of Rs.49,000/- paid was inadequate and directed one Shri Mukeshkumar Mithalal Modi to pay Rs.4,95,615/- as deficit stamp duty. It is also the case of the petitioners that the Deputy Collector issued notice for recovery of the deficit stamp duty and then the petitioners have applied for a certified copy of the order before the Deputy Collector. It is further the case of the petitioners that they have filed an appeal before the Appellate Authority, which came to be dismissed on the ground of delay and technical defects. Being aggrieved, the present petition is filed.

5. Heard Mr.Shah, learned counsel for the petitioners and Mr.Panchal, learned Assistant Government Pleader for the

respondents. Perused the materials placed on record.

6. Learned counsel for the petitioners has submitted that the order dated 17.11.2011 passed by the Deputy Collector was not served upon the petitioner and, therefore, they could not file an appeal within stipulated time before the Appellate Authority and hence, the appeal came to be dismissed on the ground of delay.

7. Considering the facts and circumstances of the case and the averments made in the petition and the submissions of both the sides and perused the material placed on record, it appears that the respondents have not served the copy of the order to the petitioners, which fact is confirmed by the learned Assistant Government Pleader and, therefore, in the interest of justice, the matter requires to be remand back to the concerned respondent - authority for reconsideration.

8. In view of the above and for the foregoing reasons, the petition is allowed. The impugned order passed by respondent No.2 is hereby quashed and set aside. The matter is remanded back to the Appellate Authority to reconsider the same and fresh decision. The Appellate Authority is directed to decide the matter on its own merits and in accordance with law as expeditiously as possible after giving proper opportunity of hearing to the petitioners without being influenced by the earlier observations and the orders passed by the authority. Rule is made absolute to the aforesaid extend. There shall be no order as to costs. Direct service is permitted.

(HEMANT M. PRACHCHAK,J)

V.R. PANCHAL