

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 17324 of 2025**

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LEGAL HEIRS OF DECEASED PATEL VASHRAMBHIA HARJIBHAI & ORS.

Versus

DEPUTY COLLECTOR, RAJKOT (RURAL) & ORS.

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Appearance:

MR MEET D KAKADIA(11896) for the Petitioner(s) No. 1,1.1,1.1.1,1.1.2,1.2

GOVERNMENT PLEADER for the Respondent(s) No. 1,2,4

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 22/12/2025****ORAL ORDER**

Learned advocate Mr. Meet Kakadia appears for the petitioner submits that respondent no.5 is the original plaintiff in the suit and he had instituted a suit under the provisions of Section 5 of the Mamlatdar's Courts Act before the Court of the Mamlatdar, at Lodhika, Dist: Rajkot. Based upon which, proceedings have been initiated and ultimately at the end of day, Mamlatdar concerned has allowed the suit of the respondent no.5 with a specific direction that defendant no.10 is directed to remove impediment/obstruction created on the way. Being aggrieved and dissatisfied with the said decision, appeal is preferred before the Deputy Collector by the defendant no.10 wherein petitioner herein has not been joined as a party respondent. During the midst of the proceedings, those particular facts have already been brought to the notice of the Deputy Collector that certain persons who have been made party in the proceedings before the Mamlatdar's Court

have not been made party before this Court, and therefore, this is a clearcut case of non-joining of necessary parties, and without joining them as party respondents the issue involved in the matter cannot be decided. Despite the fact, the Deputy Collector had proceeded with, and ultimately passed order against the present petitioner.

Learned Advocate Mr. Kapadia further submits that if both the applications are put in a juxtaposition and read together, in that event, it would have been found out that name of the petitioner is mentioned as one of the defendant in the main proceedings instituted by the respondent no.5 whereas in the appeal proceedings he has not been joined as a party despite the said fact the order has been passed against the present petitioner. The said act, action and conduct of the appellate authority prima-facie seems to be violative of principle of natural justice, and order is passed without providing appropriate opportunity of hearing to the petitioner, therefore, the same is required to be quashed and set aside by remanding back the matter to the concerned revenue authority.

Considering the above-stated totality of the facts of the matter, issue notice, making it returnable on 03.02.2026. In the meantime, ad-interim injunction in terms of prayer 36(c) is hereby granted.

(DIVYESH A. JOSHI,J)

AMIT ITALIAN

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AMIT DAHYABHAI ITALIAN(HCW0112), ENGLISH STENOGRAPHER GRADE I, at High Court of Gujarat on 23/12/2025 17:55:45