

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 11749 of 2024

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LEGAL HEIRS OF DECEASED JAMALSHA IBRAMSHA RAFAI & ORS.

Versus

GUJARAT REVENUE TRIBUNAL & ORS.

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Appearance:

MR. VISHVESH R. ACHARYA(14664) for the Petitioner(s) No.

1,1.1,1.2,1.3,1.4,1.5,2,2.1,2.2,2.3

MR JK SHAH ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 2,3

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 25/11/2024

ORAL ORDER

1. Heard learned Advocate Mr. Vishvesh Acharya on behalf of the petitioner and learned Assistant Government Pleader Mr. J.K. Shah on behalf of respondent- State.

2. Rule returnable forthwith. Learned AGP waives service of rule on behalf of respondent – State.

3. By way of this petition, the petitioner challenges order dated 12.06.2024 passed by the in-charge Chairman, Gujarat Revenue Tribunal, Ahmedabad whereby delay of approximately 22 years and 8 months in challenging order passed by the Deputy Collector has been condoned.

4. Considering the nature of the order and with consent of parties, the present petition is taken up for final disposal.

5. Considering the submissions made by learned Advocates for the respective parties, it would appear that an order dated 30.08.1996 passed by the Deputy Collector, Rajula whereby the tenure of the land from restricted tenure to unrestricted tenure for the purpose of agriculture activity, had been challenged by the State through the Mamlatdar, Kodinar before the learned Gujarat Revenue Tribunal by preferring Revision Application No. TEN/BR/04/2019.

6. It appears that an application for condoning delay in preferring the revision application had also been filed and whereas the said application had been allowed by the Gujarat Revenue Tribunal. Perusing the order passed by the learned Gujarat Revenue Tribunal it appears that no reasons much less sufficient reasons for condoning delay of more than 22 years, has been taken into consideration.

7. It also appears that on absolutely vague and ambiguous observations namely that whenever the Government for public purpose bifurcates districts, complex situation arises and on account of the same sometimes issues like the present, escape the notice of the Government authorities therefore, good cause for condoning delay of more than 22 years according to learned Gujarat Revenue Tribunal is made out. To this Court it would appear that the reasoning is completely unsustainable. In view of the long delay, which has occurred, it was necessary and expected of the revision applicants- State to have made out a good cause for condonation of delay and whereas the same was required to be considered by the learned Gujarat Revenue Tribunal in accordance with law and in accordance with the law down by the Hon'ble Supreme Court as well as this Court. It would appear that while the State, considering that it is an impersonal machinery, is not

required to explain delay on day-to-day basis but at the same time, to this Court it would appear that there has to be atleast some reasonable grounds made out for condonation of such a huge delay. It would appear that the reasonings, which weighed with the learned Gujarat Revenue Tribunal cannot be treated to be sufficient cause for condoning delay of the above nature.

8. Having regard to such a position, the impugned order requires interference. At the same time, since the order is being interfered on the ground that it is almost akin to a non-speaking order, appropriate opportunity also requires to be afforded to the State for making out a case for condoning delay and the learned Gujarat Revenue Tribunal is required to be directed to consider the same within a specific time limit. Having regard to the above discussion, the following orders are passed:

[1] Impugned order dated 12.06.2024 passed by the learned Gujarat Revenue Tribunal in Revision Application No. TEN-BR-04-2019 is hereby quashed and set aside.

[2] The Gujarat Revenue Tribunal is directed to revive the revision application along with the application for condonation of delay and whereas application for condonation of delay shall be decided within a period of 45 days from the date when the order of this Court is presented before the learned GRT.

[3] The learned Gujarat Revenue Tribunal while taking a decision as regards the application for condonation of delay, shall take into consideration the appropriate provisions of law as well as the law laid down

by the Hon'ble Supreme Court in this regard and whereas a speaking order i.e a reasoned order shall be passed by the learned Gujarat Revenue Tribunal in the application.

9. With the above observations and directions, the present petition stands disposed of as allowed.

10. It is clarified that this Court has not gone into the merits of the issue. Rule is made absolute to the above extent.

NIRU

(NIKHIL S. KARIEL,J)