**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CIVIL APPLICATION NO. 17971 of 2017**
**With**
**CIVIL APPLICATION (FOR BRINGING HEIRS) NO. 1 of 2026**
**In R/SPECIAL CIVIL APPLICATION NO. 17971 of 2017**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE DEVAN M. DESAI**

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| Approved for Reporting | Yes | No |
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FAZLEABBAS GULAMHUSEN SAIYED
Versus
KANUBHAI CHHAGANBHAI RAWAL & ORS.

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Appearance:
MR YUSUFKHAN PATHAN(3799) for the Petitioner(s) No. 1
MR NIKUNJ KANARA, AGP for the Respondent(s) No. 9
NOTICE SERVED for the Respondent(s) No. 2
NOTICE SERVED BY DS for the Respondent(s) No. 1,8,9
SERVED BY RPAD (N) for the Respondent(s) No. 4,5,6,7
UNSERVED EXPIRED (N) for the Respondent(s) No. 3

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CORAM:**HONOURABLE MR. JUSTICE DEVAN M. DESAI**

**Date : 23/10/2026**
**JUDGMENT**

## Order in Civil Application No. 1 of 2026:

1. The present Civil Application has been filed for bringing the legal heirs of deceased – respondent No. 3, Dahyaji Motiji Rathod, on record by condoning the delay of 3897 days caused in filing the present application. Copy of death certificate is produced on record.

2. Learned advocate Mr. Yusufkhan Pathan for the applicant,

submitted that the heirs of the deceased are required to be brought on record. The petition would be rendered futile if the heirs of the deceased – respondent No. 3 are not brought on record by condoning the delay of 3897 days caused in filing the present application.

3. In view of the averments made in the application and having considered the submissions made by the learned advocate for the applicant, the heirs of the deceased – respondent No. 3 are found to be necessary parties. Hence, the present application deserves to be allowed by condoning the delay of 3897 days in filing the present application, and the same is hereby allowed. Necessary amendment to be carried out forthwith.

## **Order in Special Civil Application No. 17971 of 2017:**

1. The present petition is filed under Articles 226 and 227 of the Constitution of India, 1950 by the petitioner praying for the following reliefs:

> *"(A) This Petition may kindly be admitted;*
> *(B) Hon'ble Court may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction for quashing and setting aside the Order dated 30-04-2015 passed by Respondent No.8 in CON Case No. 59/2010 (Annexure-H) as confirmed by Order dated 09-08-2016 passed by Respondent No.9 in Revision Application No. MVV / CON /KHD /23 /2015 (Annexure-I);*

> *(C) Hon'ble Court may be pleased to direct the Respondents to restore actual physical possession of land of Survey No.514 situated in Village Sansoli, Taluka Mahemdabad, District Kheda to the Petitioner forthwith;*
> *(D) Pending admission, hearing and final disposal of this Petition, the Hon'ble Court may be pleased to stay the operation, implementation and execution of Orders dated 30-04-2015 passed by Respondent No.8 in CON Case No. 59/2010 (Annexure-H) as confirmed by Order dated 09-08-2016 passed by Respondent No.9 in Revision Application No. MVV / CON / KHD /23 / 2015 (Annexure-I)*
> *(E) Any other and further relief as the Honourable Court may deem just and proper in the facts and circumstances of the case may please be granted to the Petitioner;"*

2. Rule returnable forthwith. Learned AGP Mr. Nikunj Kanara waives service of Notice of Rule for and on behalf of respondent No. 9.

Heard learned advocate Mr. Yusufkhan Pathan for the petitioner and learned AGP Mr. Nikunj Kanara for respondent No.9.

3. Brief facts of the case are as follows:

3.1 The Agricultural land bearing Survey No. 514 admeasuring 0-15-18 Hec-Are-Sq.mtrs. situated at Village – Sansoli, Taluka – Mahemdabad, District – Kheda, originally belonged to respondent Nos. 3 to 7. The said land was purchased by respondent Nos. 1 and 2 by way of a

registered sale deed dated 20.11.2007. The entry with respect to the registered sale deed came to be mutated in the revenue records by way of Entry No. 1350. The said entry came to be cancelled on 31.03.2008. Thereafter, a new revenue entry No. 1598 came to be registered in the revenue record in favour of respondent Nos. 1 and 2. The said entry came to be certified on 18.12.2009. Respondent Nos. 1 and 2 sold the said land to the petitioner by way of a registered sale deed dated 18.05.2010. The entry with respect to the registered sale deed came to be mutated in the revenue records by way of Entry No. 1745 which came to be cancelled on 15.09.2011. Thereafter, a new entry No. 2004 came to be entered in the revenue record which came to be certified on 03.04.2012. Respondent No. 8 filed suo motu Revision under Section 35 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 with respect to the sale transaction between respondent Nos. 1 and 2 and respondent Nos. 3 and 7 wherein, no notice was issued to the petitioner and learned Prant Officer, Kheda, by an order dated 30.04.2015, held the sale transaction to be illegal. Being aggreived and dissatisfied with the same, the

petitioner approached the learned SSRD by way of Revision Application who, by an order dated 09.08.2016, dismissed the Revision Application and confirmed the order of the learned Prant Officer, Kheda.

3.2 Being aggrieved and dissatisfied with the said order, the petitioner is before this Court by way of the present petition.

4. Learned advocate for the petitioner, at the outset, has placed reliance upon the Government Ordinance No. 2/2026 passed by the Revenue Department, Sachivalaya, Gandhinagar, dated 14.07.2026 and contended that by amending Section 9 of the Gujarat Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter, referred to as *"the Act"*), any transfer or partition of a land contrary to the provisions of the Act made on or after 29.01.1948 but on or before 31.03.2026 shall be deemed to have been regularized without charging any penalties or premium and all pending proceedings before any authority shall abate. It is contended by learned advocate for the petitioner that in the present case, cancellation of mutation entry is on the ground that the sale of the land in question resulted in fragmentation of the block without obtaining prior permission of the learned Collector as

contemplated under the Act. It is therefore, submitted that in view of aforesaid amendment in the Act, the present petition deserves to be allowed by quashing and setting aside the order dated 09.08.2016 passed by the learned SSRD in Revision Application No.MVV/CON/KHD/23/2015 as well as order dated 30.04.2015 passed by the learned Prant Officer, Kheda. Except above, no other submissions were made by learned advocate for the petitioner.

5. *Per contra,* learned AGP Mr. Nikunj Kanara for respondent No. 9 could not contradict the aforesaid facts and contended that Sub-Section(4) has been added in Section 9 of the Act. Except above, no other submissions were made by learned AGP for respondent No. 1.

6. Having considered the submissions made by learned advocates for the parties and upon perusal of the papers placed on record, it appears that the challenge in the present petition is against the order dated 09.08.2016 passed by the learned SSRD whereby the Revision Application filed by the petitioner came to be rejected by confirming the order dated 30.04.2015 passed by the learned Prant Officer, Kheda. The petitioner, having a registered sale deed dated 18.05.2010 in respect of the land in question, had

the sale deed entry mutated in the revenue records vide Entry No. 2004. The entry came to be rejected by the learned Prant Officer, Kheda vide order dated 30.04.2015. Learned SSRD also affirmed the finding of learned Prant Officer, Kheda and rejected the Revision Application of petitioner.

7. Sub-section(4) has been inserted in Section 9 of the Act. Sub-section (4) of the Act is reproduced hereunder:

> *"(4) Notwithstanding anything contained in this Act, a transfer or partition of a land contrary to the provisions of this Act made on or after the 29th January, 1948 but on or before 31st March, 2026 shall be deemed to have been regularised without charging any penalties or premium therefor and all pending proceedings before any officer or authority in respect of the aforesaid transfer or partition shall abate.".*

8. The provision mandates that any transfer of land which was contrary to the provisions of the Act made on or after 29.01.1948 but on or before 31.03.2026 shall be deemed to have been regularized without charging any penalties or premium and all pending proceedings before any Officer or Authority in respect of a transfer shall stand abated. In view of aforesaid provision of law, the sale deed is indisputably falling within the aforesaid two dates of 29.01.1948 and 31.03.2026. Therefore, the transfer of land is

deemed to have been regularized without charging any penalties or premium.

9. It also appears from the record that no proceedings are pending before any authority dealing with the question of breach of provisions of the Act, and therefore, the question of abatement of such proceedings do not arise in the present case. In the present case, the entry of sale deed was cancelled on the ground of the sale being violative of the provisions of the Act as there was no prior permission obtained by the private parties before entering into a transaction of sale.

10. In view of the aforesaid amended provision, the present petition deserves to be allowed and the same is hereby allowed. The order dated 09.08.2016 passed by the learned SSRD in Revision Application No.MVV/CON/KHD/23/2015 as well as order dated 30.04.2015 passed by the learned Prant Officer, Kheda are, hereby quashed and set aside. Rule is made absolute accordingly.

**(D. M. DESAI,J)**

MUSKAN

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MUSKAN AJAY MENON(HC02359), ENGLISH STENO GRADE-II\, at High Court of Gujarat on 30/10/2026 17:40:07