IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 17189 of 2026

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KHIMABHAI NARANBHAI KANDORIYA
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR DHRUV M PAREKH(12293) for the Petitioner(s) No. 1
MR MA PAREKH(1088) for the Petitioner(s) No. 1
MR. MITUL GAUTAM, AGP for the Respondent(s) No. 1,2,3,4,5

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CORAM:**HONOURABLE MRS. JUSTICE M. K. THAKKER**

Date : 06/11/2026

ORAL ORDER

1. Heard learned advocate Mr. Dhruvam Parekh appearing for the petitioner and learned AGP Mr. Mitul Gautam appearing for the respondent–State.

2. Learned advocate for the petitioner submits that the petitioner has challenged the order dated 17.07.2026 passed in Encroachment Case No. 1 of 2026 before the Deputy Collector by preferring an appeal being Appeal Case No. 10 of 2026. It is further submitted that, despite the pendency of the aforesaid appeal, the respondent authority issued a notice calling upon the petitioner to remove the alleged encroachment, which was challenged before this Court by filing Special Civil Application No. 13421 of 2026. Learned advocate

further submits that, in the aforesaid proceedings, learned AGP Mr. Mitul Gautam had made a statement before this Court that the impugned notice dated 02.09.2026 would be kept in abeyance till the final disposal of the appeal preferred by the petitioner. In view of the said statement, the petition came to be disposed of. It is further submitted that, thereafter, the respondent authority issued another notice dated 02.11.2026, calling upon the petitioner to remove the alleged encroachment on or before 05.11.2026, failing which the authority would take possession of the land and remove the encroachment on 05.11.2026. Learned advocate submits that, although the appeal is stated to have been decided on 19.10.2026, the petitioner has not been served with a copy of the order passed by the Deputy Collector till date. It is further submitted that the impugned notice dated 02.11.2026 has been issued within a period of three days, calling upon the petitioner to remove the alleged encroachment, without ensuring that a copy of the appellate order has been duly served upon the petitioner. It is, therefore, submitted that the action of the respondent authority is contrary to the

principles of natural justice and deserves interference by this Court.

3. Per contra, learned AGP Mr. Mitul Gautam submits that a copy of the order dated 19.10.2026 passed by the Deputy Collector has been served upon the learned advocate appearing for the petitioner by hand delivery. It is, therefore, submitted that, in the absence of any further interim or prohibitory order operating in favour of the petitioner, the respondent authority is justified in issuing the impugned notice for removal of the encroachment.

4. Having considered the submissions advanced by the learned advocates appearing for the respective parties and having perused the material available on record, it emerges that the order dated 19.10.2026, produced by the learned AGP, records in its concluding portion that a copy of the order has been forwarded to the concerned parties. However, when a specific query was raised by this Court regarding the mode of service of the said order upon the petitioner, learned AGP was unable to produce any acknowledgment of service through RPAD

or any other documentary evidence establishing due service of the order upon the petitioner. It appears that the respondent authority has adopted a peculiar mode of service by handing over a copy of the order to the learned advocate appearing for the petitioner, without placing any material on record to establish due service upon the petitioner.

5. In the aforesaid facts and circumstances, this Court is of the opinion that the petitioner is required to be granted an opportunity to avail the statutory remedy available under Section 205 of the Bombay Land Revenue Code. Accordingly, the impugned notice dated 02.11.2026 shall remain stayed for a period of 60 days from the date of receipt of a copy of the order dated 19.10.2026 by the petitioner, so as to enable the petitioner to avail the remedy of appeal, if so advised, in accordance with law

6. The petition is disposed of. With the aforesaid direction, the present petition stands disposed of.

7. Direct Service today is permitted.

(M. K. THAKKER,J)

NIVYA A. NAIR

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: NIVYA ABHAY NAIR(HC01901), PRIVATE SECRETARY, at High Court of Gujarat on 06/11/2026 16:03:45