



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO.**  
**437 of 2026**

**In F/LETTERS PATENT APPEAL/39011/2025**  
**In R/SPECIAL CIVIL APPLICATION/19382/2021**

**With**  
**F/LETTERS PATENT APPEAL NO. 39011 of 2025**  
**In**  
**R/SPECIAL CIVIL APPLICATION NO. 19382 of 2021**  
**With**  
**CIVIL APPLICATION (FOR STAY) NO. 1 of 2025 In**  
**F/LETTERS PATENT APPEAL NO. 39011 of 2025**  
**In**  
**R/SPECIAL CIVIL APPLICATION NO. 19382 of 2021**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL**

**and**  
**HONOURABLE MR.JUSTICE D.N.RAY**

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|                        |     |    |
|------------------------|-----|----|
| Approved for Reporting | Yes | No |
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STATE OF GUJARAT & ANR.  
 Versus  
 KISHANBHAI NANALAL SHAH

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Appearance:  
 MS.HETAL PATEL, ASST.GOVERNMENT PLEADER for the  
 Applicant(s) No. 1,2  
 A B PATEL(7467) for the Respondent(s) No. 1

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**CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE**  
**SUNITA AGARWAL**  
**and**  
**HONOURABLE MR.JUSTICE D.N.RAY**



**Date : 09/02/2026**

**ORAL JUDGMENT  
(PER : HONOURABLE THE CHIEF JUSTICE  
MRS. JUSTICE SUNITA AGARWAL)**

1. Having heard Ms.Hetal Patel, the learned Assistant Government Pleader appearing for the State appellants and perused the record, at the outset, it may be noted that the present State appeal is delayed by 837 days for which, no plausible explanation has been offered in the application seeking condonation of delay, other than that the matter remained pending at the levels of the officials of the Revenue Department and the Legal Department, to form an opinion to file the appeal.

2. As per the statement made in the application, intimation about the judgment impugned dated 08.08.2023 along with the opinion of the learned Assistant Government Pleader in the matter of filing of the Letters Patent Appeal was obtained on 13.09.2023, wherein it was opined to comply with the order dated 08.08.2023 or else to file the Letters Patent Appeal without delay.

3. Thereafter, the documents along with the checklist were sent to the Legal Department on 06.06.2024 with the request to seek permission to file the Letters Patent Appeal against the judgment impugned. On 02.07.2024, a letter has been sent to the Section Officer, Office of the learned Government Pleader, High Court of Gujarat by the Section Officer, Revenue Department, Gandhinagar to file appeal. Further, by



the communication dated 30.06.2025, the documents were forwarded to the Office of the Government Pleader, High Court for filing the present appeal and on receipt of the said documents, it was drafted and filed.

4. The procedural delay in filing the present appeal casually explained with the assertions that there is no negligence or inaction on the part of the applicant, is wholly unacceptable. We may note that upon noticing frequent filing of delayed letters patent appeals (Intra-court appeals), directions were issued by this Court to formulate a litigation policy to provide a time bound process to form opinion for filing of letters patent appeal by the competent authority, so that the filing of frivolous and highly delayed State appeals may be curbed.

5. As a consequence, the amendment in the Gujarat State Litigation Policy has been notified on 29.06.2024 by the Legal Department of the State, which provides a checklist regarding proposals to be made by the Legal Department for seeking permission to assail the judgments before the appellate forums of the High Court or the Supreme Court.

6. The preamble of the original Gujarat State Litigation Policy, however, says that the State of Gujarat frames a policy which reflects a system of governance wedded to the principle "for the people" and more importantly, "for the welfare of the people", through having reformed justice delivery system by the Executive Activism under the National Legal Mission to reduce average pendency time from 15 years to 1 year. The



vision of the State Litigation Policy, as narrated therein, is the aim of the State of Gujarat to transform Government into an efficient and responsible litigant State by:-

- i. \*\*\*
- ii. \*\*\*
- iii. Saving all avoidable costs on unproductive litigation;
- iv. Reducing load (backlog of old cases) of judiciary whenever the Government is a litigant (party to the proceedings.)

7. The objectives of the litigation policy, as aligned therein, is to outline the broad guidelines on litigation strategies to be followed by the State Government or its agencies with a view to reduce litigation, saving avoidable cost on unproductive litigation, reducing avoidable filing in Courts, with respect to Government induced litigation.

8. The aim is that the State of Gujarat become an efficient litigant by focusing on the core issue involves in the litigation, managing and conducting litigation in a cohesive, coordinated and timely manner, ensuring the successful outcome of good cases.

9. Taking note of the vision, object and aim of framing of the State Litigation Policy by the State of Gujarat, we may also have a look to the notification dated 29.06.2024, the purpose to amend certain clauses of the State Litigation Policy pursuant to the orders of this Court dated 09.11.2023 in the intra-court appeals filed by the State.



10. The purpose of the notification, as stated therein, is to strengthen the litigation policy with the provision for fixing accountability in cases of delayed processes, while also safeguarding interest of the State Government where the State has strong footing or where any adverse ruling might have wider policy implications across the breadth and depth of the Government organization and further in ensuring that such cases are not lost merely on the ground of delays in filing legal process.

11. The notification states that the State Government would desire that while putting forward the delay condonation application, the concerned officer representing the State would also identify erring officials responsible for causing delays and would take action for fixing accountability through appropriate disciplinary measures. Accountability is the touch stone of the State litigation policy notified by the Government notification dated 29.06.2024. The policy provides time limit for filing appeal or other proceedings before the higher forum in paragraph '10-AA' as under:-

**"10-AA Time limit for filing Appeal or other proceedings before the higher forum:**

Law Officer shall submit the copy of the Order or Judgment along with his/her opinion for filing or not filing appeal or other proceedings before the higher forum immediately within seven (07) days from the date of the receipt of the order passed either at interim stage or at final stage. After receiving the opinion of Law Officer, concerned department shall take decision to accept or to challenge the Order or Judgment within seven (7) days. After that, the Legal Department will give opinion within seven (7) days from date of decision received from concerned department."



12. With regard to the delayed appeals beyond limitation, the provisions, the instructions are contained in paragraph '10-B' of the notification dated 29.06.2024 as under:-

**"10-B-Limitation; Delayed Appeals.**

(A) The Legal Department will entertain Cases referred, for leg opinion, after delays only if the concerned department puts record chronology of events leading to delays in moving the matter to Legal Department. Further, the department forwarding the proposal must also evaluate and put on record the action taken in identifying individual officers/employees responsible for causing delays and proposed course of action at its end to fix accountability for delays. The department forwarding the proposal shall furnish additional details as prescribed in Annexure A or Annexure B hereto as the case may be.

(B) It is recognized that defending good cases before legal forum becomes difficult when appeals are filed well beyond the period of limitation and without any proper justification for the delay. It is therefore expected that department or official representing Government interest shall put on record of the legal forum detailed grounds of delays organized chronologically, explaining to the extent of every single day of delay to the extent possible.

(C) Applications for condonation of delay should be drafted properly, explaining delay with cogent and sufficient reasons. Application shall not be prepared in printed form and in a mechanical way. This practice shall be immediately stopped. It is the responsibility of the Law Officer to draft an application for condonation of delay carefully, identifying the areas of delay and the causes thereof with particulars.

(D) Every attempt shall be made to reduce delays and it shall be the responsibility of each of the Head of Departments to work out an appropriate system for the elimination of delays and ensure its implementation."

13. The stepwise course of action to be adopted after receiving the opinion of the Law Department in the matter of filing appeal / review in paragraph '10-C' provides as under:-

**"10-C Course of action after receiving the opinion of the Law Department in matter of filing appeals / review:**



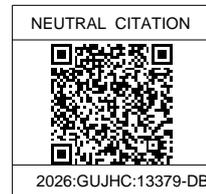
After opinion of Legal Department has been received with regard to filing appeal/revision/review, the concerned Department would take following action as per the case scenario:

(a) If the opinion of the concerned Department is to challenge the Order/Judgement and the Legal Department also agrees with the same, then in that case the Legal Department shall immediately issue necessary instruction to the Government Pleader or the Public Prosecutor. In such circumstances, the concerned administrative department shall contact the Government Pleader or the Public Prosecutor and take necessary action to see that legal process is filed within the time limit.

(b) If the opinion of the concerned Department is to challenge the Order/Judgement and if the Legal Department does not agree with the same and upon receipt of opinion of the Legal Department, if upon reconsideration, the concerned Department decides to agree with the opinion of the Legal Department, then in such cases, the Order or Judgment of the Court shall be notified to the concerned to be complied with, within the time limit specified by the Court.

(c) Where there is a difference of opinion between the concerned Department and the Legal Department, the Administrative Department shall refer the said matter to a Committee headed by the Chief Secretary, with Secretaries of Law, Expenditure/Finance Department, GAD and concerned administrative Department as its members. Thereafter, the concerned Administrative Department shall proceed as per the decision of the said Committee.”

14. A careful perusal of the Gujarat State Litigation Policy in force with effect from 29.12.2011 and the modifications / amendments brought by the notification dated 29.06.2024, makes it evident that the State has taken a responsibility onto itself to avoid cost on unproductive litigation, so as to ensure that public exchequer and the higher Courts, both are not burdened with unproductive litigations only on the opinion formed by one or two officers of the concerned department. As per the procedure provided therein, the action is required to be taken in the following manner:-



i. There is a need for a consensus of the concerned department and the Legal Department before issuing necessary directions to the Government Pleader or the Public Prosecutor in the matter of challenging the orders / judgments before the higher courts. In case, both the departments agree to challenge the decision, immediate steps are required to be taken to see that the legal process is filed within the time limit.

ii. If the consensus is not formed between the concerned department and the Legal Department, i.e. the Legal Department does not agree with the opinion of the concerned department to challenge the order / judgment, the matter is to be placed before the concerned department for reconsideration. After reconsideration, if the concerned department decides to agree with the opinion of the Legal Department, the order or the judgment of the Court shall be notified to the concerned for compliance, within the time limit specified by the Court.

iii. In case where there is a difference of opinion between the concerned department and the Legal Department, the Administrative Department shall refer the matter to a Committee headed by the Chief Secretary with Secretaries of Law, Expenditure / Finance Department, General Administration Department and concerned administrative department as its members. The final decision, then, has to be of the said committee, whereafter the administrative department shall have to proceed, accordingly.

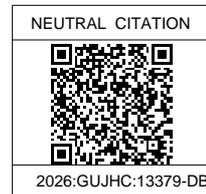


15. In the instant case, as noticed hereinbefore, the Assistant Government Pleader communicated the judgment and order dated 08.08.2023 vide communication dated 13.09.2023, directing either to comply with the order or to file the letters patent appeal without delay.

16. The checklist along with the documents was sent to the Legal Department on 06.06.2024 and by the communication dated 02.07.2024, the letter was sent from the office of the Section Officer, Revenue Department, Gandhinagar to the office of the Government Pleader to file the letters patent appeal. By the time, the amendments in the State Litigation Policy providing for the course of action in the matter of filing delayed appeals and other appeals / review / revision, have already been notified with the Government notification dated 29.06.2024.

17. The requirement, therefore, was that before sending the communication dated 02.07.2024 by the concerned department, namely the Revenue Department, Gandhinagar, the steps prescribed in the notification dated 29.06.2024 must have been followed. There is complete silence in the affidavit of the officer concerned, namely the Mamlatdar and Executive Magistrate, Nadiad (Rural) of having taken necessary opinion from the Legal Department in the matter of filing of the present appeal.

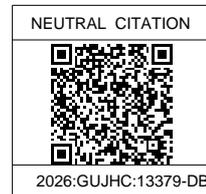
18. There is not even a whisper in the application seeking condonation of delay supported by the affidavit of the Mamlatdar and Executive Magistrate, Nadiad (Rural) that the



Legal Department had given consent in the matter of filing of the present letters patent appeal and the communication dated 02.07.2024 was sent after obtaining opinion of the Legal Department of the State.

19. It is striking to note that even the communication dated 02.07.2024, which has been narrated in paragraph '7' of the application has not been appended with the application / affidavit of the officer explaining delay, though various other communications are annexed therewith collectively as Annexure 'A'.

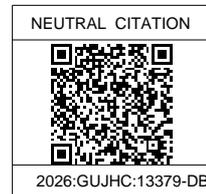
20. We may also note from the communication dated 05.07.2024 on record, reference of which is not found in the application, but has been appended as Annexure 'A' to the said application, that there is a reference of the communication dated 12.06.2024 of the concerned officer of the Legal Department of the State and the letter dated 02.07.2024 issued by the Section Officer, Revenue Department communicating the Government Pleader Office of the High Court to file the letters patent appeal. The copy of the communication dated 12.06.2024 of the Legal Department of the State has, however, not been brought on record to demonstrate that the Legal Department of the State has agreed to file appeal in the present matter that too with the substantial delay, opining that the State has a prima facie good case and the intra-Court appeal is needed to be filed to protect the interest of the State.



21. From the above, atleast, it is evident that the instructions issued by the State Government in the matter of filing of the letters patent appeal vide notification dated 29.06.2024, had not been followed when decision to file the instant appeal was communicated by the Revenue Department to the office of the learned Government Pleader in the first week of January' 2024. Suffice it to say that once the amendments to the State Litigation Policy had been notified providing a timeline, there was a requirement to place the matter before the Legal Department to find out the causes for delay and to record the reasons to form an opinion to file the delayed Intra-court appeal. The procedure, as prescribed and notified by the State Government, has not been followed by its own officers in filing of the present appeal.

22. We have said so emphatically, inasmuch as, the present is a matter where the Full Bench of this Court has already laid down the ratio that even an agriculturist recognized as such, outside the State, is entitled to purchase the agricultural land within the State of Gujarat, which has simply been followed by the learned Single Judge in allowing the writ petition for setting aside the order passed by the Secretary, Revenue Department in holding the sale deed being in breach of the Gujarat Tenancy and Agricultural Lands Act, 1948.

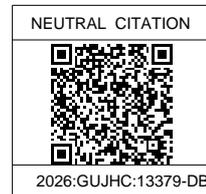
23. When the facts of the matter clearly indicated that the learned Single Judge has simply followed the law laid down by the Full Court of this Court, which was binding on him, the opinion to file letters patent appeal was required to be taken as an informed decision with the reasoning as to why the State needed to prefer the letters patent appeal.



24. We may also note that the full Bench judgment dated 22.06.2012 in the case of **Preetisingh Mukandsingh Shikh V. State of Gujarat** reported in **2012 (2) GLR 1608** has been subjected to challenge before the Apex Court in Special Leave Petition Nos.20449, 20479 of 2012 and allied matters and the same is stated to be pending adjudication as on date. But the fact remains that the Apex Court has not granted any stay and only a *status quo* order has been passed restraining creation of the third party rights as on 30.07.2012.

25. The ground taken for filing of the present appeal is that the petitioner is not an agriculturist of the State of Gujarat and the mutation entries made on misreading of the records of the State will be *void ab initio*. Any delay in invoking the suo motu powers of the Collector to cancel the mutation entry, does not render the action of the Revenue Authorities non-est in the eye of law, which has been illegally held by the learned Single Judge. The plea is that the mutation entries were rightly quashed by the State Authorities, inasmuch as, the name of the petitioner though was reflected as an agriculturist in the revenue records of the State of Rajasthan, but there was a difference in his name in the revenue entries of the State of Rajasthan and the State of Gujarat.

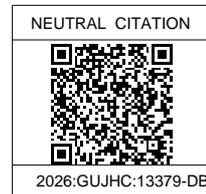
26. Be that as it may, even considering the case of the State on its merits, suffice is to note that being bound by the Full Bench decision of this Court, it was ordinarily not open for the learned Single Judge to deviate from the law laid down therein and to form any contrary opinion.



27. Further, in the facts of the present matter, the ratio of the full bench decision in the case of ***Preethisingh (Supra)*** rendered on 22.06.2012 was equally binding on the revenue authorities in the territory of the State. Hence, the initial action of the Deputy Collector (L-R), Kheda at Nadiad for proceedings against the petitioner treating him as a non-agriculturists on an application of a third party, by registering the Tenancy Case No.12 of 2019 under Section 63 read with Section 84(C) of the Bombay Tenancy and Agricultural Land Act, 1948 itself was in teeth of the judgment of the full bench of this Court.

28. It was the specific case of the petitioner before the writ Court that in reply to the notice by the Deputy Collector, the petitioner had submitted documentary evidences as also the judgment of this Court and the Apex Court on the issue of agriculturists of the other State, and requested the Mamlatdar to drop the proceedings as the issue was pending before the Apex Court.

29. However, the Mamlatdar had rejected the application of the petitioner to drop the proceedings vide order dated 25.06.2020. The Tenancy Appeal before the Deputy Collector (L-R), Kheda at Nadiad has also been dismissed vide order dated 28.09.2020 ignoring the law laid down by this Court. Both the orders are subject matter of challenge before the Gujarat Revenue Tribunal, where the matter is pending as on date.



30. Not stopping there, the Collector, Kheda at Nadiad had initiated parallel *suo motu* proceedings for cancelling the mutation entries of the years 1995, 2001 and 2008 and by order dated 20.07.2021 while cancelling the entries, the direction was given to the Mamlatdar and ALT to initiate proceedings under Section 63 read with Section 84(C) of the Bombay Tenancy and Agricultural Lands Act, 1948.

**31.** The contention of the petitioner before the writ Court was that the Collector had initiated *suo motu* proceedings under Rule 108(6) of the Gujarat Land Revenue Rules, 1972 after a delay of more than 25 / 19 / 12 years in setting aside the aforesaid mutation entries in the name of the petitioner and that the revisional powers are not exercised within a reasonable time. It was also pleaded that the Collector had no power to decide whether a person is an agriculturists or not in RTS proceedings, as held by this Court in the case of ***Siddharthbhai B. Shah Vs. State of Gujarat [1999 (2) GLH 82]***.

32. When the issue of validity of the notice in the Tenancy Case No.12 of 2019 under Section 63 read with Section 84(C) of the Bombay Tenancy and Agricultural Lands Act, 1948 was pending before the Gujarat Revenue Tribunal in a challenge to the order dated 25.06.2020 and 28.09.2020 with the request of the petitioner to drop the said proceedings in view of the pendency of the issue before the Apex Court, we see no reason as to why the Collector would invoke its revisional powers, in a parallel *suo motu* proceedings to cancel the

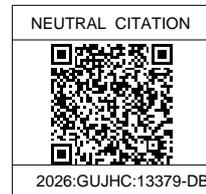


mutation entries on the same ground i.e. that the petitioner was not an agriculturists of the State of Gujarat.

33. From the above, we are more than satisfied that the decision to file this State Appeal with an inordinate unexplained delay of 837 days has been taken without adverting to the binding decision of the Full Bench in the case of **Preethisingh (Supra)** rendered on 22.06.2012.

34. The contention of the learned Assistant Government Pleader that this Intra-court appeal may be maintained because of the pendency of the Civil appeal before the Apex Court against the decision of the full Bench, is liable to be rejected as misconceived. Suffice it to say that the ratio of the Full bench judgment of this Court is still binding on us, inasmuch as, the effect and operation of the said decision has not been stayed by the Apex Court.

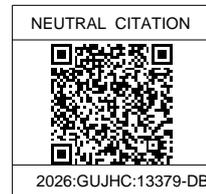
35. The status-quo order dated 30.07.2012 passed by the Apex Court in restraining the creation of third party rights does not give license to the revenue authorities of the State to initiate fresh proceedings. The action of the Collector, Kheda at Nadiad in initiating *suo motu* proceedings in the year 2021 for cancelling the mutation entries and giving directions for initiation of the proceedings under Section 84(C) of the Bombay Tenancy and Agricultural Lands Act, 1948 is clearly contemptuous being in teeth of the ratio of law laid down by the full bench of this Court.



36. In such a matter, the legal department of the State cannot be expected to form an opinion to institute Intra-court appeal proceedings merely on the premise of the pendency of the Civil appeal filed by the State before the Apex Court against the decision of the full Bench. It seems that the opinion to file this Intra-court appeal has been formed at the ends of the Officers of the revenue department of the State. The State cannot be expected to litigate in order to defend contemptuous action of the Officers of the State, who proceed to take decisions on their own whims and fancies, ignoring the binding decisions of the Court of law.

37. The State being the largest litigant in the High Court is required to evaluate the merits on its case independently by scrupulously following the procedure prescribed in its own policy so that institution of frivolous and highly delayed State appeal can be curbed. No doubt, the State has to safeguard its interest where it has a strong footing or where any adverse ruling might have wider policy implications across the State. But it is also the duty and responsibility of the State to save avoidable cost on unproductive litigation and reduce avoidable filing in Courts, which not only results into wastage of the public exchequer but also cause sheer wastage of precious judicial time of this Court by unnecessary burdening this Court.

38. A conscious evaluation of each case on its merits, in light of the procedure prescribed in the State litigation policy, is needed and accountability is to be fixed upon the Officers who



have deviated from the State policy, not only resulting in the State losing its good cases on account of the dereliction on the part of the such Officials but also in bringing unproductive litigation in this Court at the cost of public exchequer. The Law department of the State is equally liable to form an independent opinion as to whether the State should go in appeal before the higher forum.

39. The present is a glaring case of State apathy where the State Revenue Officers have conveniently ignored the binding law declared by this Court and then the State has decided to take up the issue in this Intra-court appeal to defend the action of its Officers, even after the learned Single Judge has clearly held that the action cannot be sustained in view of the Full Bench decision of this Court.

40. This order is to be treated as a warning to the State officers to desist from bringing such litigations in this Court on behalf of the State where they themselves have disobeyed the binding decisions of this Court. This order shall be sent to the Chief Secretary of the State and also the Revenue Secretary by the Registrar General of the High Court to circulate amongst all Officers of the State under their control and supervision, as a warning from the Court.

41. This order shall also be placed before the learned Advocate General as well as the Legal Secretary, Law Department of the State, who shall make an inquiry collectively, as to how and in what manner the present appeal



has been filed with an inordinate delay of 837 days so as to take necessary steps so as to put their houses in order, or else this Court will be constrained to take some harsh decisions if such occurrences are repeated in future.

42. The learned Government Pleader of the High Court is also directed to take note of this order and issue necessary instructions to all the Assistant Government Pleaders in his office, to remain attentive in the matter of drafting of the application seeking condonation of delay along with the State's letters patent appeals (Intra-court appeals) and place on record all necessary material to explain the delays. In the course of drafting of the delay condonation application, the concerned Assistant Government Pleader be required to ask some uncomfortable questions from the officers of the State bringing instructions, but that should not desist them from bringing correct and complete facts before the Court. The learned Government Pleader of the High Court shall also convey to the learned Assistant Government Pleaders that any casual explanation in future may be treated as incompetence on their part. The learned Government Pleader is, thus, required to put his house in order so that such occurrences are not repeated in future.

43. With the above, on merits, we do not find any good ground to sustain the challenge being against the decision of the Full Bench of this Court.



44. The appeal stands dismissed, both on the ground of delay as well as on merits. Resultantly, pending civil application stands disposed of.

**(SUNITA AGARWAL, CJ )**

**(D.N.RAY,J)**

SAHIL S. RANGER