

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 2379 of 2009

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE DEVAN M. DESAI

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Approved for Reporting	Yes	No

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RELIANCE INDUSTRIES LIMITED

Versus

**STATE OF GUJARAT, SECRETARY, REVENUE DEPARTMENT (APPEALS)
& ORS.**

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Appearance:

GANDHI LAW ASSOCIATES(12275) for the Petitioner(s) No. 1

DECEASED LITIGANT for the Respondent(s) No. 3.1

**DECEASED LITIGANT THROUGH LEGAL HEIRS/ REPRESENTATIVES
for the Respondent(s) No. 3**

MS RAJVI SHAH, AGP for the Respondent(s) No. 1

**MS MAHIMA H BRAHMBHATT(11279) for the Respondent(s) No.
3.2,3.3,3.4,3.5**

MS SACHI H BAROT(13081) for the Respondent(s) No. 3.2,3.3,3.4,3.5

RULE SERVED for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 14/10/2026

JUDGMENT

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) That this Honourable Court be pleased to issue a writ of certiorari and / or any other appropriate writ, order or direction, under Article 226 of the Constitution of India as also an appropriate order under Article 227 of the Constitution of India, quashing and setting aside the order dated 21st October, 2008, passed by the Secretary Revenue Department (Appeals) for and

on behalf of the Sate of Gujarat in a revision, bearing No.MVV-JMN-JNR-42- 2006, a copy whereof figures at Exhibit 'G' to the memorandum of the present petition and, thereupon, be pleased to confirm the order dated 19th May, 2006 passed by Respondent No.2 in an appeal bearing No.JMN-2-Vilamb-32/05-06, a copy whereof figures at Exhibit 'E' to the memorandum of the present petition;

(B) That, pending admission, hearing and final disposal of the present petition, this Honourable Court be pleased to stay the further proceedings before Respondent No.2 in an appeal of Respondent No.3 pursuant to the remand thereof by Respondent No.1, vide order dated 21st October, 2008, in a revision, bearing No.MVV-JMN-JNR-42-2006, a copy whereof figures at Exhibit 'G' to the memorandum of the present petition and thereupon, be pleased to stay implementation and operation of the said order dated 21st October, 2008 at Exhibit 'G' to the memorandum of the present petition;

(C) That this Honourable Court be pleased to award the costs of this petition to the petitioner herein;

(D) That this Honourable Court be pleased to pass such other and further orders as the nature and circumstances of the case may demand."

2. The petitioner is aggrieved by the order passed by the learned Secretary, Revenue Department (Appeals) (hereinafter, referred to as "SSRD") in Revision under Section 211 of Bombay Land Revenue Code, 1879 whereby, by common order dated 21.10.2008, a prayer for joining petitioner as a party respondent came to be rejected and the order of the learned Collector,

Jamnagar, in rejecting the application of respondent No. 3 for re-grant after a period of 33 years, stood quashed and set aside and a direction was given to the learned Collector, Jamnagar to decide the issue afresh taking into consideration the State of Gujarat resolution dated 16.03.1982.

3. Heard learned Senior Advocate Mr. Mihir Joshi assisted by learned advocate Mr. Kunal Vyas, learned advocate Mr. Devarsh Trivedi and learned advocate Mr. Shivam Chokshi for Gandhi Law Associates for the petitioner, learned advocate Mr. Manan Brahmbhatt for respondent No. 3 and learned AGP Ms. Rajvi Shah for the respondent – State.

4. Brief facts of the case are as under:

4.1 A land bearing Survey No. 396 of Village – Navagam, Taluka – Lalpur, District – Jamnagar, admeasuring about 9 acres and 7 gunthas was allotted by the learned Deputy Collector, Jamnagar for cultivation by way of grant to predecessor-in-title of respondent No. 3 vide order dated 06.06.1962. One of the obligations casted upon predecessor-in-title of respondent No. 3 was to cultivate the land within a period of 2 years from the grant. The learned

Deputy Collector, Jamnagar, by an order dated 22.12.1972, canceled the grant as the predecessor-in-title of respondent No. 3 committed breach of the terms and conditions, more particularly, not taking possession of the land as well as not cultivating the land within a period of 2 years of grant. The present petitioner, being desirous of setting up a Special Economic Zone (hereinafter, referred to “SEZ”), requested the State of Gujarat to provide sufficient land at Jamnagar. The said request was granted and, by an order dated 02.04.2008, subject to terms and conditions, the land in question being Survey No. 396 of Village – Navagam, Taluka – Lalpur, District – Jamnagar, was allotted to the petitioner and possession of the same was also given to petitioner. Petitioner developed the land and constructed superstructure thereon. The respondent No. 3, in the year 2005, after a period of 33 years, applied for re-grant pursuant to a Government Resolution dated 16.03.1982. The learned Collector, Jamnagar, vide order dated 19.05.2006, rejected the appeal on the ground of limitation. Respondent No. 3 approached the learned Secretary, Revenue Department (Appeals), State of Gujarat by way of Revision under Section

211 of Bombay Land Revenue Code, 1879. Upon receiving the knowledge about the Revision being filed by respondent No. 3, present petitioner moved an application on 09.07.2008 seeking impleadment as respondent therein. The learned SSRD, by a common order dated 21.10.2008, rejected the application for impleadment and remanded the matter to learned Collector, Jamnagar for deciding the issue afresh after considering the Government Resolution dated 16.03.1982.

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

5. Learned Senior Advocate for the petitioner contended that the land in question was allotted to predecessor-in-title of respondent No. 3 on 06.06.1962 for the purpose of cultivation. The possession of the land was not taken over by predecessor-in-title of respondent No. 3 and, on finding the fact that predecessor-in-title of respondent No. 3 was not cultivating the land, learned Deputy Collector, by an order dated 22.12.1972, cancelled the grant and, the same was mutated in Revenue Record as "Waste

Land". The land was in the ownership of the Government. Since 21.12.1972, the predecessor-in-title of respondent No. 3, during his lifetime, did not take any steps for regrant. Thereafter, the State earmarked parcels of land near Jamnagar for the development of SEZ. The petitioner, being interested in developing the land for SEZ, requested the State of Gujarat for allocation of land for setting up a SEZ. The request application came to be granted by the State and allotted the land in question being Survey No. 396 on 02.04.2008. The possession of the land was handed over to the petitioner, in the year around 2008. Respondent No. 3, by way of an application, requested the learned Collector, Jamnagar to regrant the same. There was a gross delay 33 years in making a request for re-grant. The application came to be rejected being without any cogent and convincing reasons. Before the learned SSRD, the application for impleadment was submitted by the petitioner. It is submitted that the learned SSRD, not only committed an error by rejecting the application for impleadment, but also by remanding the matter back to the learned Collector, Jamnagar, for fresh adjudication, indirectly condoning gross delay of 33 years.

6. It is further submitted that respondent No. 3 filed Special Civil Suit No. 133 of 2007 against the State as well as the present petitioner for a relief of declaration and permanent injunction. The injunction application came to be rejected by the learned Civil Court and the suit also came to be dismissed for non-prosecution on 21.07.2010. It is submitted that respondent No. 3 has failed to establish that predecessor-in-title of respondent No.3 took possession of the land and was cultivating the land within 2 years from the date of grant. As the request for re-grant is made after an unreasonable period of time, the learned Collector has rightly rejected the application. Learned Senior Advocate for the petitioner has relied upon the decision in the case of **“Keshubhai Virbhanbhai Vala vs. The Special Secretary (Appeals) Revenue Department”** dated 29.09.2023, passed by the Co-ordinate Bench of this Court in **Special Civil Application No. 16588 of 2022**. The Co-ordinate Bench of this Court in a similar set of facts, has held that on the date of application for re-grant, interest of third party was created on the basis of allotment letter and, further held that the delay in making the request for re-grant is fatal to the case of original allottee. The said decision was carried before the Hon’ble Division Bench of this Court in Letters Patent

Appeal No. 1308 of 2023 and allied matters, wherein, by an order dated 01.11.2023, the order of learned Single Judge was affirmed. The decision of the Hon'ble Division Bench of this Court in Letters Patent Appeal was carried before the Hon'ble Apex Court. The Hon'ble Apex Court, vide order dated 22.01.2024, dismissed the Special Leave Appeal. It is, therefore, submitted that the present petition be allowed by quashing and setting aside the order passed by the learned SSRD. Except above, no other submissions were made by learned Senior Advocate for the petitioner.

7. *Per contra*, learned advocate for respondent No. 3 contended that the order of the learned Deputy Collector in canceling the allotment on 22.12.1972 was an ex-parte order as, there was no opportunity given to the predecessor-in-title of respondent No. 3 to represent his case. The learned Collector, while rejecting the application, did not consider the Government Resolution dated 16.03.1982 and rejected the appeal, which resulted in a revision before the learned SSRD. It is submitted that the predecessor-in-title of respondent No. 3 was cultivating the land after the allotment and, therefore, upon appreciating the said submission, the learned SSRD remanded the matter to the learned

Collector for fresh adjudication. It is submitted that the allotment of the land in question in favour of the petitioner was pending revision before the learned SSRD and, therefore, the said allotment is not genuine and legal transaction between the State and the petitioner. In view of this, the allotment and possession of the land in question are only on paper transaction and no interest is created in favour of the petitioner. It is further submitted that the allotment of the land in question to the petitioner was subject to Condition Nos. 26 and 32, which provide that if any right of any person is found in respect of the allotted land, the same shall be subject to the rights of such person and such person should not be adversely affected. It is also provided that the effect of the allotment of land shall be subject to any litigation pending before the appropriate Court. At the time of allotment of the land to the petitioner, Special Civil Suit No. 133 of 2007 was pending before the learned Principal Senior Civil Judge, Jamnagar. By way of the aforesaid suit, a claim of right over the land in question was pending. Therefore, the petitioner has no right over the land in question, and the rejection of the application for impleadment of the petitioner as a respondent in revision proceedings was rightly rejected by the learned SSRD.

8. Learned advocate for respondent No. 3 has placed reliance upon the following paragraph in the decision in the case of **“State of Gujarat vs. Harijan Jivabhai Jashabhai” in Special Civil Application No. 27521 of 2007 and allied matters.**

“With respect to the petition of the Reliance Jamnagar Infrastructure Ltd, however, I find that the said petitioner has no direct locus standi to challenge the orders passed by the Joint Secretary (Appeals). It may be that the Government has in principle approved setting up SEZ in and around the same area. It may be that formal approval is also accorded, however, ultimately, it is for the Government to provide the land for setting up such SEZ. Whether the land in question in fact is that of the ownership of the Government absolutely and exclusively or whether the same has been granted to any individual for cultivation or whether part of the land is of exclusive ownership of a citizen, to my mind, so far as Reliance Jamnagar Infrastructure Ltd is concerned, there would be no difference. Ultimately, the land shall have to be allotted to the said company for setting up SEZ on such terms and conditions as may be decided in that regard. Reliance Jamnagar Infrastructure Ltd. shall have to pay compensation either to the Government or to the land owner or occupants in accordance with law. Only on that count that the company is desirous of setting up SEZ in the area, which covers the land in question, the orders passed by the Joint Secretary (Appeals) does not become challengeable at the hands of the company. The Joint Secretary, therefore committed no error in rejecting the application of Reliance Jamnagar Infrastructure Limited, seeking permission to join as a respondent in the Revision Application of the respondent.”

9. Learned AGP for the respondent – State has supported the impugned order and submitted that the order impugned is just and

proper and no interference is required by this Court. It is, therefore, prayed that the present petition be dismissed.

10. Having considered the submissions canvassed by learned advocates for the parties and upon perusal of the papers placed on record, an undisputed fact culls out from the record that the land in question was given on grant to the predecessor-in-title of respondent No. 3, namely, Deva Sajan Rabari, for cultivation pursuant to an order passed by the learned Deputy Collector, Jamnagar, on 06.06.1962. One of the conditions stipulated in the grant was that the predecessor-in-title of respondent No. 3 was to cultivate the land within a period of 2 years from the date of grant. The learned Deputy Collector, Jamnagar, found a breach of condition committed by the predecessor-in-title of respondent No. 3 and, therefore, on 22.12.1972, the grant came to be canceled and the land was recorded as waste land in the revenue record. The predecessor-in-title of respondent No. 3, during his lifetime, neither challenged the order nor applied for re-grant. In the year 2005, respondent No. 3 made a request to the learned Collector, Jamnagar, for re-grant of the land. The petitioner, being desirous of setting up a SEZ upon a parcel of land admeasuring about

10,000 acres at Jamnagar for Petroleum and Petrochemicals, requested the State of Gujarat to provide sufficient land at Jamnagar for the purpose of development of SEZ. The request of the petitioner was accepted by the State by passing an order dated 02.04.2008, and the land in question, being Survey No. 396 of Village – Navagam, Taluka – Lalpur, District – Jamnagar, admeasuring about 9 acres and 7 gunthas, along with different parcels of land situated in District – Jamnagar, came to be allotted to the petitioner and possession was handed on receipt of consideration on 17.04.2008. The present petition is concerned with Revenue Survey No. 396 of Village – Navagam. The allotment of land was subject to conditions such as Condition Nos. 26 and 32 (page Nos. 45 and 46 of the compilation), which are reproduced hereunder:

“Condition No. 26 (Pg. 45): Although no one has any existing rights or interests in the land allotted to the applicant company, if anyone has any existing rights or interest, they should be maintained as it is and work should be done in a manner that does not adversely affect them.”

“Condition No. 32 (Pg. 46): In the event any litigation is pending before any Court in respect of any portion of land allotted under this Order, the same shall be subject to orders of Court, and shall be implemented in accordance with such order. In respect of lands which stand as “Shri

Sarkar” in revenue record in which, no order of injunction / stay operates in any case of appeal / revision in respect of such land, shall be treated as Government owned land and possession thereof shall be handed over accordingly.”

11. Before the allotment of the land in question in favour of the petitioner, respondent No. 3, sometime in the year 2005, approached the learned Collector, Jamnagar, for re-grant. The request for re-grant was made after a gross delay of 33 years. There is no convincing and palpable explanation forthcoming on behalf of respondent No. 3 for such delay. The only ground for delay which has been canvassed by respondent No. 3 before the learned Collector is that the predecessor-in-title of respondent No. 3 was not communicated regarding the order dated 02.12.1972 canceling the grant. If such ground is taken on its face value, it is not a sound ground that the predecessor-in-title of respondent No. 3 could not have had any knowledge regarding cancellation of grant for three decades. The order of cancellation of grant attained finality in absence of any challenge made by the predecessor-in-title of respondent No. 3 during his lifetime. Respondent No. 3, having no right to question the cancellation of grant, more particularly, in absence of any challenge made by the predecessor-in-title, the learned Collector has rightly rejected the

appeal filed by respondent No. 3 on the ground of delay. Moreover, before the learned Collector as well as before this Court, the learned advocate for respondent No. 3 could not place on record any iota of evidence to substantiate that the predecessor-in-title of respondent No. 3 took possession of the land in question as an allottee and started cultivating the land within the period of 2 years from the date of grant. Only a bare statement that the predecessor-in-title of respondent No. 3 was holding possession and cultivating the land is not sufficient. The record further reveals that the petitioner also made an attempt to claim his right over the land in question by filing Special Civil Suit No. 133 of 2007 before the learned Senior Judge, Jamnagar. In the suit proceedings, the petitioner failed to establish any prima facie case, resulting in rejection of the injunction application. Learned Senior Advocate for the petitioner contended that the aforesaid suit came to be dismissed for default on 21.07.2010. Thus, in the civil proceedings also, the petitioner has failed to establish his rights over the land in question. The submission of learned Senior Advocate for the petitioner that, after payment of consideration, the land was allotted to the petitioner and commercial activities are undergoing. Therefore, if, after a huge

gap of timeline, land is re-granted to respondent No. 3, it would lead to chaos and administrative exigencies. The learned SSRD, while rejecting the application for impleadment of the petitioner as respondent in the revision, has given undue weightage to Condition No. 32. If Condition No. 32 is once again perused, it stipulates that if any allotted land is involved in pending court litigation, the allotment will remain subject to the court's final decision. However, where land is recorded in the name of the State Government ("Shri Sarkar") and a khatedar or other party has a pending suit, appeal, or revision without any stay or injunction, the land will be treated as owned by the State Government, and its physical possession will be handed over to the State.

12. In the civil proceedings, the petitioner has failed to establish any *prima facie* case, which resulted in rejection of the injunction application and, thereafter, the suit came to be dismissed for default in the year 2010. There is nothing on record to show that subsequently the suit is restored and decided. Therefore, the question of there being any prohibitory order of any Civil Court has no assistance to the case of respondent No. 3. Moreover, when

the land was allotted and possession was handed over to the petitioner, the learned deputy Collector has already rejected the appeal and the question / issue pending before the learned SSRD would not lead to breach of condition Nos. 26 and 32 of the allotment dated 02.04.2008. Therefore, there was no order in operation passed by any competent Court with regard to the land in question. Learned advocate for respondent No. 3 could not point out any prohibitory orders passed by Revenue Authorities whereby, the allotment dated 02.04.2008 can be said to be an illegal allotment at the hands of State. The learned SSRD, in my opinion, has miserably failed to appreciate the long delay of 33 years in making a request for re-grant by respondent No. 3 and has merely relied upon a bare statement that the land is in possession of respondent No. 3 and is under cultivation. The learned SSRD further committed an error by ignoring the Government Resolution dated 03.01.1984. The resolution dated 03.01.1984, states that where the land has remained under Government ownership for a long period and its value has increased, and where its non-agricultural utility has also arisen, if a request for re-grant is made after such a long period, such request ought not to be accepted. This was the purport/intention of the

aforesaid Government orders. It is further stated that, once such land is resumed/vested as Government land, then, in accordance with the Government policy relating to disposal of Government land, the market value of such land is required to be determined. Thus, previous Resolution dated 16.03.1982 would not be helpful to respondent No. 3.

13. Learned advocate for respondent No. 3 has relied upon the case of ***Harijan Jivabhai Jashabhai Supra***. On appreciating the facts appeared before the Co-ordinate Bench of this Court, it reveals that the land was yet to be allotted to the company for setting up SEZ and the Company was to pay compensation either to the Government or to the land owner or occupants. Whereas, in the present case, the land has already been allotted to the petitioner for setting up SEZ, possession of the land has been handed over to the petitioner on payment of consideration and the commercial activities have already been started over the land and, therefore, the said decision would not be helpful to the case of respondent No. 3. A similar issue cropped up before the Co-ordinate Bench of this Court in the case of ***Keshubhai Virbhanbhai Vala Supra***. The Co-ordinate Bench of this Court,

while setting aside the order of learned SSRD, has observed that the land in question was allotted to the petitioner by way of *santhani* on 25.03.1969. It was found that the order of allotment had never come into effect and no formalities were completed by deceased father of petitioner during his lifetime. The allottee was required to cultivate the land, which was breached by allottee and in the year 2018, a request was made by petitioner to the learned Mamlatdar that possession of the land be handed over to petitioner in terms of allotment order dated 25.03.1969. It is also found on reading the decision that the appeal of the petitioner came to be rejected by Deputy Collector on the ground of delay and laches. The Revision preferred by petitioner before the learned District Collector came to be partly allowed and the matter was remanded back to the learned Deputy Collector for deciding the issue afresh. In remand proceedings, learned Deputy Collector rejected Revision Application and thereafter, learned District Collector, upon challenge being made by petitioner, held that as per Government Resolution dated 19.02.2018, the benefit be required to be extended to the petitioner. A Revision Application came to be filed before the learned SSRD challenging the order of learned Collector, who, allowed the Revision Application. The challenge

against the order passed by the Co-ordinate Bench of this Court was taken up to the Hon'ble Apex Court and the Hon'ble Apex court, upheld the order passed by the Co-ordinate Bench of this Court. Thus, the present is also a case where the application / appeal of respondent No. 3 came to be rejected on the ground of delay and laches which is wrongly reversed by learned SSRD.

14. Considering the entire facts and circumstances of the case, the present petition is allowed. The order dated 21.10.2008 passed by the learned SSRD is hereby quashed and set aside, and the order dated 19.05.2006 passed by the learned Collector, Jamnagar, is hereby upheld.

(D. M. DESAI,J)

MUSKAN