NEUTRAL CITATION
2026:GUJHC:50973

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.20413 of 2016

FOR APPROVAL AND SIGNATURE :

HONOURABLE MR. JUSTICE NIRZAR S. DESAI Sd/-

==

Approved for Reporting	Yes	No
	YES	

==

SURESHBHAI DEVJIBHAI NALIYAPARA
Versus
STATE OF GUJARAT & ANR.

==

Appearance :
MR. ZALAK B PIPALIA for the Petitioner.
MR NIKUNJ KANARA, AGP for the Respondents.

==

CORAM:**HONOURABLE MR. JUSTICE NIRZAR S. DESAI**

Date : 11/08/2026
JUDGMENT

1. With the consent of the parties, the matter is taken up for final hearing. Hence, **Rule**. Learned Assistant Government Pleader waives service of rule on behalf of the respondents.

2. By way of this petition, the petitioner has prayed for the following reliefs :-

> "[A] YOUR LORDSHIPS may be pleased to admit and allow this petition.
>
> [B] YOUR LORDSHIPS may be pleased to issue a

writ of mandamus or a writ in nature of mandamus or a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction, by quashing and setting aside the impugned order at Annexure "A" dated 08.08.2016 passed by the respondent No.1 in the interest of justice;

[C] YOUR LORDSHIPS may be pleased to issue a writ of mandamus or a writ in nature of mandamus or a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction, quashing and setting aside the impugned order dated 29.01.2016 passed by the respondent no.2 herein at Annexure -"B" to the petition in the interest of justice;

[D] Pending admission, hearing and final disposal of this petition, YOUR LORDSHIPS may be pleased to stay the implementation, execution and operation of the impugned order dated 08/08/2016 passed by the respondent No.1 at Annexure -"A" and the order dated 29/01/2016 passed by the respondent no.2 at Annexure "B" in the interest of justice."

3. It is the case of the petitioner that the petitioner executed a Sale Deed in respect of two plots i.e. property bearing Revenue Survey No.499 paiki Plot Nos.23 and 24 admeasuring 1281.22 Sq. Mtrs. which approximately comes to 1532.34 Sq. Yds. The property was purchased by the petitioner by paying a

consideration of Rs.1,55,000/- for which the petitioner paid a stamp duty of Rs.21,700/-. The aforesaid Sale Deed was registered on 10.3.2000.

4. Thereafter, the respondents after almost 13 years issued a show-cause notice dated 7.2.2013 and asked the petitioner to produce the details about the actual market rate of the Society. However, the show-cause notice does not bear any details about under which Section, the said show-cause notice was issued. As per the show-cause notice, the petitioner was also asked to pay a sum of Rs.3,04,220/- towards deficit Stamp Duty and penalty, on the basis of the fact that the property as per the notice was valued at Rs.23,25,500/- instead of Rs.1,50,000/- at which the document was executed.

5. In pursuance to the aforesaid show-cause notice, the petitioner appeared before the Deputy Collector, Stamp Duty Valuation, Rajkot City Division 1 and ultimately, vide order dated 29.1.2016, the authority passed an order directing the petitioner to pay a sum of Rs.2,30,550/- towards deficit stamp duty and penalty and the said amount be recovered from the petitioner.

6. The petitioner challenged the aforesaid order before Respond No.1 - Chief Controlling Revenue Authority and the Chief Controlling Revenue Authority rejected the appeal of the petitioner vide order dated 8.8.2016 by considering the fact that the document was executed on 17th April 1999 but was registered on 10th March 2000 and in between on 1st November 1999, the Jantri price of land in question was increased and therefore, when the registration took place on 10th March 2000, the Jantri date as on 1st

November 1999 was applicable and not the date prevailing of 17th April 1999 and therefore, the Respond No.2, i.e. Deputy Collector was justified in passing an order of recovery of Rs.2,30,550/- from the petitioner towards the deficit Stamp Duty and Penalty.

7. Learned Advocate Mr. Zalak Pipalya submitted that keeping all the rights and constraints of the petitioner open, the petitioner would like to assail the impugned orders only on the ground that the authority was not justified in determining the market price of the land in question solely on the basis of Jantri value. Mr. Pipalya further submitted that if this contention is not accepted by the Court, in that case only, the petitioner shall argue the matter on merit. He relied upon **a decision of the Full Bench of this Court in case of Vasantbhai Haribhai Gajera v. Chief Controlling Revenue Authority in Stamp Reference No.1 of 2014 with Stamp Reference No.2 of 2014 decided on 22nd of August 2016**. Mr. Pipalya drew attention of this Court to paragraph 8.2 of the aforesaid decision and submitted that the Full Bench of this Court has held that while making assessment of the valuation of property on the basis of Jantri, an opportunity is required to be granted to the purchaser as the market value of the property is dependent upon so many special circumstances like property is absolutely in such area and/or location of the property is such that the same may not fetch price in comparison to other property which may be on the main road. He submitted that the action on the part of the respondent No.2 to rely solely on the Jantri price is contrary to the aforesaid settled proposition of law and, therefore, the matter is required to be remanded back to the respondent No.2 i.e. Deputy Collector, Stamp Duty Valuation, Rajkot as both the authorities have passed the impugned orders

solely on the basis of prevailing Jantri rate without considering other relevant factors which they ought to have considered in view of judgment of the Full Bench of this Court in the case of Vasantbhai Haribhai Gajera.

8. Learned Assistant Government Pleader Mr. Nikunj Kanara appearing for the respondents vehemently opposed the petition by stating that the impugned orders passed by the authorities are absolutely just, legal and proper. However, he could not point out from either of the orders that the authority has considered any other factor except for Jantri rate of the property of the area in question for determining the market value of the property and, therefore, he submitted that appropriate order be passed.

9. I have heard learned advocates for the parties and perused the record. As the matter is argued only on one point that while passing the impugned orders by both the authorities i.e. the Deputy Collector as well as Chief Controlling Revenue Authority have considered the market price i.e. valuation of the property solely on the basis of Jantri price of the area in which the property is situated without considering any other factor which may have been canvassed before them which is not in consonance with the observations made by the **Full Bench of this Court in the case of Vasantbhai Haribhai Gajera (Supra)** in paragraph 8.2 which reads as under :-

> “8.02. In a given case, it may happen that because of the special circumstances, i.e. the property is absolutely in such an area and/or

> location of the property is such, which would not fetch price in comparison to other property which may be on the main road may fetch, the market value is required to be determined accordingly. Therefore, while making assessment of the valuation of the property on the basis of the Jantry, such an opportunity is required to be given to the purchaser."

10. In paragraph 9 of the aforesaid decision, the Full Bench has reiterated the aforesaid ratio.

11. If the impugned orders passed by the respondent authorities are considered in light of the ratio of the aforesaid Full Bench decision of this Court in the case of Vasantbhai Haribhai Gajera (Supra), it is crystal clear that the authority while ordering the recovery of deficit stamp duty along with penalty did not consider any other factor except Jantri rate of the property in question, whereas the authority was required to consider all relevant factors which would determine the correct valuation of the property in question, which according to the Court would amount to a material error committed by the authority.

12. Resultantly, the impugned orders i.e. (i) order dated 08.08.2016 passed by the respondent No.1 – Chief Controlling Revenue Authority as well as (ii) impugned order dated 29.01.2016 passed by the respondent No.2 – Deputy Collector, Stamp Duty Valuation, Rajkot are required to be quashed and set aside and hence, the said orders are quashed and set aside. The matter is remanded back to the respondent No.2 – Deputy Collector, Stamp

Duty Valuation, Rajkot for deciding the issue afresh and with a direction to consider the valuation of the property by considering all relevant factors for determining the market price of the property in question and may not be confined only to the Jantri value of the property on the date on which the registration had taken place. All the rights and contents of all parties are kept open. It is clarified that this Court has not examined any other aspect except the aspect that was canvassed by learned advocate Mr. Zalak Pipalia. Rule is made absolute. No order as to costs.

Sd/-
(NIRZAR S. DESAI,J)

SAVARIYA