

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 22534 of 2017****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**

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Approved for Reporting	Yes	No

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DEVENDRASINH CHHATRASINH VAGHELA
Versus
CHIEF SECRETARY & ORS.

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Appearance:

SUREN B PATEL(8420) for the Petitioner(s) No. 1
VMP LEGAL(7210) for the Petitioner(s) No. 1
MS. HEMALI D. SONI, AGP PP for the Respondent(s) No. 1
MR. RAJ A TRIVEDI(7024) for the Respondent(s) No. 4
NOTICE SERVED for the Respondent(s) No. 1
RULE SERVED for the Respondent(s) No. 2,5
UNSERVED EXPIRED (R) for the Respondent(s) No. 3
MR JAY DALEWALA FOR VIRAL K SHAH(5210) for respondent(s) no. 4

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 06/08/2026
ORAL JUDGMENT

1. By filing present petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the order dated 30.08.2017 passed by the respondent – SSRD in Revision Application No.11/2009 as well as the order dated 19/09/2009 passed by the respondent No.2– City Deputy Collector and thereby prayed for declaration that the initiation of the proceedings by the respondent – Deputy Collector for the breach of the provision of the Gujarat Prevention of



Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter referred to as "Fragmentation Act" for short) is without jurisdiction.

2. Heard learned advocates appearing for the respective parties.
3. However when the matter has taken up for hearing, learned AGP has tendered copy of Notification dated 14.07.2026 issued by the Revenue Department, which is taken on record, whereby by Gujarat Ordinance No.2 of 2026, an amendment has been made by amending statutory provisions of law in the provision of the Gujarat Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter referred to as "Fragmentation Act" for short). She, therefore, submitted that in view of the said amendment in Section 9 of the Fragmentation Act, a transfer and/or partition of a land contrary to the provision of the Fragmentation Act made on or after 29th January, 1948 but on or before 21st March, 2026 shall be deemed to have been regularized 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 stand abated. She, therefore, submitted that in such cases, there are only Government authorities, who are contesting the matters and in some cases, the original land owners are also before this Court, therefore considering the facts of the case, the matters may be remanded before the authority concerned so that appropriate decision can be taken as to whether the present case would fall under the said Notification or not.
4. On the other hand, learned advocate for the petitioner referred



to the documents available on record including the sale deed executed in favour of the petitioner and submitted that the sale deed is executed on 11/02/2003, therefore, the time duration mentioned in the aforesaid amendment would squarely applicable to the facts of the present case. He, therefore, submitted that in view of the facts of the case, the proceedings require to be declared as abated. He further submitted that in fact, remanding the matter back to the authority concerned to decide afresh would not serve the purpose of said Notification published by the State Government and in fact, it can be said to be against the object of said Notification. He, therefore, submitted that considering the object behind publication of such Notification, the present petition may be allowed by declaring the proceedings initiated by the authority under the said provision as abated.

5. Having heard learned advocates appearing for the parties and having gone through the material and available on record including the amendment, which has been placed on record by learned AGP during the course of hearing, it appears that by the aforesaid Notification, amendment has been made in the provision of the Fragmentation Act, whereby it is decided to abate the proceedings initiated against the transaction which has taken place in contravention of the provision of the Fragmentation Act i.e. on or after 29th January, 1948 but on or before 21st March, 2026.
6. I have considered the provision of the Fragmentation Act and found out that the said provision, which has been enacted for more than seven decades, was enacted with a sole intent to prevent fragmentation of an agricultural land holdings and



providing for consolidation thereof, with a view to securing agricultural efficiency and ensuring orderly management of agricultural land. However with the passage of time during all these years after the enactment of the said provision, substantial changes have taken place in the socio-economic conditions of the State, patterns of land use and agricultural practices and considering the said set of facts and the developments, the State Government has thought it fit to amend the said provision to ensure that its objectives are achieved in a manner consistent with present-day requirements. Not only that, from time to time, there is expansion of urban and municipal areas, as a result of which, agricultural lands situated in such areas and their periphery have been included in residential, commercial and industrial zones under development Plans, rendering such lands eligible and more suitable for non-agricultural use and because of statutory restrictions, the person concerned/ occupant is prevented from obtaining requisite permission for commencement of non-agricultural use. Therefore with a sole intent to resolve the said issue, the State Government, by the said Notification, has amended the sections 5 and 9 of the Act with a view to meet current socio-economic and to resolve these long-standing issues by regularising violations and updating the law to reflect current land-use realities as also to balance agricultural interests with developmental needs of the State.

7. It is found out from the said Notification that by the said Notification, sub-section (3) of Section 5 and sub-section (3) of Section 9 have been inserted, which read as under:



“Amendment of Section 5 of Bom. LXII of 1947.-

In the principal Act, in section 5, after sub-section (3), the following sub-section shall be added, namely: -

- “(4) Notwithstanding anything contained in section 4 or foregoing sub-sections, the State Government may from time to time, by notification in the Official Gazette, declare a standard area for any class of land in any local area.”.

Amendment of section 9 of Bom. LXII of 1947.-

In the principal Act, in section 9, after sub-section (3), the following sub-section shall be added, namely: -

- “(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. Thus in view of the above, more particularly, from sub-section (3) of Section 9, it appears that a transfer or partition of a land contrary to the provision of the Fragmentation Act made on or after 29th January, 1948 but on or before 31st March, 2026 shall be deemed to have been regularized 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.
9. However at this stage, submission made by learned AGP with regard to remanding the matter back before the authority concerned is required to be considered. Here in the present case, it is an admitted position of fact that the transaction, against which the proceedings have been initiated, is a bonafide transaction and despite which, the petitioner is



moving pillar to post. Not only that, it appears from the record that the original land owners have already pocketed the amount from the petitioner and/or purchaser and there is no dispute about the same, therefore after having pocketed amount, he cannot have any locus to say anything in the revenue proceedings, however if he is aggrieved, in that event, he can avail appropriate remedy available under the law.

10. At this stage, it would be profitable to refer to the judgment of the Hon'ble Supreme Court in case of **Peter Augustine Vs. K.V. Xavier**, reported in **2025 INSC 771**, wherein the Hon'ble Supreme Court has clarified that an appellate court should not remand a matter if there is no useful purpose to do so. The Hon'ble Supreme Court has emphasized that remand should be exercised within specific legal contours to avoid unwarranted prolongation of litigation. In the said decision, the Hon'ble Supreme Court has observed that remand is not a routine measure but a tool to ensure justice when the case's facts or evidence necessitate further proceedings. The Hon'ble Supreme Court has also cautioned against remanding solely to re-evaluate issues already decided if no new issues are framed or if the remand is unwarranted. Here in the present case, the issue has been crystallized by the State Government by issuing Notification, whereby it is decided to abate the proceedings initiated against the transaction which has taken place in contravention of the provision of the Fragmentation Act, therefore, if the matter is remanded for no reason, in that event, it would create multiplicity of proceedings and in my considered opinion, it is not the aim and object of the State Government at the time of issuance of said Notification. It is



also found out from the said Notification that the State Government has stated in a very categorical terms that pending proceedings before any officer or authority in respect of the aforesaid transfer or partition shall abate. Therefore having considered the facts of the present case coupled with the aforesaid amendment, it is an admitted position of fact that the transaction in question in the present case has taken place between the aforesaid period as fixed by the State Government, therefore, the proceedings initiated against the petitioner for the transaction in contravention of the provision of the Fragmentation Act deserves to be abated.

11. In the circumstances, the present petition stands allowed. In view of the amended provision under Section 9(4) of the Fragmentation Act dated 14.07.2026 in the Fragmentation Act, the proceedings shall stand abated and the orders impugned are hereby quashed and set aside.

MEHUL B. TUVAR

(DIVYESH A. JOSHI,J)