NEUTRAL CITATION
2026:GUJHC:16216

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 253 of 2013

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE DIVYESH A. JOSHI Sd/-

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Approved for Reporting	Yes	No
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KOLI PARSHOTTAMBHAI NARSINHBHAI & ANR.
Versus
STATE OF GUJARAT THRO SECRETARY (APPEALS) & ORS.

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Appearance:
MS. KITTY S MEHTA(7025) for the Petitioner(s) No. 1,2
MS. SURBHI BHATI, LD. ASST. GOVERNMENT PLEADER for the Respondent(s) No. 1,2,3

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CORAM:**HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**

Date : 17/02/2026

ORAL JUDGMENT

1. By this writ application under Article 226 of the Constitution of India, the writ applicants have called in question the legality and validity of the order dated 30.05.2012 passed by the Special Secretary (Appeals), Revenue Department, Polytechnic, Ahmedabad in Revision Application No.MVV/JMN/SNR 76-2008.

2. Facts, in brief, giving rise to the filing of the present application may be summarized as under;

2.1 On 30.01.1968, the land bearing Survey No.59/paiki/1 Moje Ghanshyampur, Taluka: Limbdi, District: Surendranagar was recorded in the name of one Raja Bechar as the measurement register was made applicable in the village: Ghanshyampur.

2.2 On 20.09.1991, the names of legal heirs and representatives of Raja Bechar were recorded in the revenue record upon the sad demise of Raja Bechar.

2.3 On 19.03.1990, the writ applicants purchased the land bearing Survey No.59/paiki/1 Moje Ghanshyampur, Taluka: Limbdi, District: Surendranagar admeasuring 8 Acre 32 Gunthas from the heirs and legal representatives of Raja Bechar vide registered sale deed dated 19.03.1990.

2.4 On 21.09.1991, pursuant to the aforesaid sale transaction, an entry being Mutation Entry No.650 came to be recorded in the revenue record, which came to be certified on 24.05.1992.

2.5 On 29.01.2003, the respondent No.3-Assistant Collector issued notice of default (Sharat Bhang) Case No.1063 to the writ applicants on the basis of the report submitted by the Mamlatdar, Limbdi that the land in question is of a new tenure, and by committing breach of conditions, the same was purchased by the writ applicants.

2.6 On 30.11.2006, the respondent No.3- Assistant Collector, without examining the records. only on the basis of the statement made by the writ applicants that they are illiterate persons unknown of law, and if there is any mistake occurred on their part, they may be forgiven, proceeded to observe that the land in question is a new tenure land and ordered to vest the land to the Government.

2.7 Being aggrieved, the writ applicants challenged the aforesaid order dated 30.11.2006 before the respondent No.2-Collector, Surendranagar by filing Land Acquisition Disputes Case No.43/2007-08.

2.8 The respondent No.2-Collector, Surendranagar vide order dated 30.08.2008, rejected the Land Disputes Case No.43 of 2007-08 only on the ground that the writ applicants made statement before the respondent No.3, and therefore, the order of the respondent No.3 is legal and correct.

2.9 Being aggrieved, the writ applicants challenged the order dated 30.08.2008 passed by the respondent No.2 before the respondent No.1-SSRD by filing revision being MVV/JMN/SNR76-2008. The respondent No.1-SSRD, vide its order dated 30.05.2012, rejected the revision application filed by the writ applicants and confirmed the orders passed by the respondent No.3-Assistant Collector and the respondent No.2-Collector.

2.10 Being aggrieved, the writ applicants are here before this Court with the present application.

3. Learned advocate Mr. Pitambar Abhichandani for learned advocate Ms. Kitty Mehta appearing for the writ applicants has reiterated the facts narrated herein above and submits that the impugned order passed by the SSRD, confirming the orders of the Assistant Collector and the Collector, is unjust, arbitrary,

perverse, illegal, unreasonable and contrary to law, and as such, deserves to be quashed and set aside. He further submits that the respondent No.1-SSRD has grossly erred in rejecting the revision application filed by the writ applicants solely on the ground that the land in question is of new tenure and the same was purchased by the writ applicants without obtaining the permission from the competent authority. Learned advocate Mr. Abhichandani also submits that the impugned order passed by the respondent No.1-SSRD is contrary to the record and facts. He submits that originally the land in question was in the name of late Raja Bechar which was of old tenure, and therefore, there is no question of taking permission from the respondents-authorities to purchase the land, and as such, there is no breach of condition or illegality being committed by the writ applicants. Learned advocate Mr. Abhichandani also submits that the land was purchased by the writ applicants by a registered sale deed in the year 1990, and the suo motu proceedings were initiated by the respondent No.3-Assistant Collector in the year 2003, and as such, there is an inordinate delay of almost 11 years in initiating the suo motu proceedings, which is quite huge and unexplained, and it is a settled legal position that suo motu action taken after reasonable period of time is null and void.

4. Learned advocate Mr. Abhichandani further submits that the respondent No.1-SSRD has erred in not appreciating the documents made available on record like the extract of Form No.7/12, wherein it is not specifically mentioned whether the land is of old tenure or the new tenure, and as such, on this

ground also the impugned order passed by the respondent No.1-SSRD deserves to be quashed being suffered from vice of non-application of mind. Moreover, in the absence of any such specific remark in the revenue record, the land was deemed to be considered to be of old tenure. Learned advocate Mr. Abhichandani also submits that while certifying Entry No.650 dated 24.05.1992 by the competent authority, the land was not shown to be the ‘new and undivided tenure land’, and therefore, on assumption and presumption, the respondents authorities have come to the conclusion that the land in question is of a new tenure. He further submits that the respondent No.1-SSRD has also erred in not appreciating the fact that the writ applicants are in possession of the land in question since 1990, and since then they have invested huge amount of money towards the development of the land in question, and therefore also, on this ground also, the impugned order deserves to be quashed and set aside.

5. Learned advocate Mr. Abhichandani further submits that the land in question has been erroneously and arbitrarily treated as new tenure land, and the proceedings under Section 79A of the Bombay Land Revenue Code have been initiated after an unexplained delay of 11 years, culminating in an order of forfeiture/vesting of land, despite the admitted legal position that Section 79A does not confer any such power. Learned advocate Mr. Abhichandani further submits that considering the language of Section 79A of the Bombay Land Revenue Code, it only empowers the revenue authority to undertake summary eviction of unauthorized occupants, and does not

confer, in any manner, confiscation or forfeiture of the land, or annulment of a registered sale deed, or vesting or resumption of land in the Government or divesting lawful title or possession of a bona fide purchaser. He also submits that the scope of Section 79A of the Bombay Land Revenue Code has been conclusively interpreted by the Hon'ble Apex Court as well as by this Court through a series of binding decisions, wherein it has been clearly held that the provisions of Section 79A are narrow, summary in nature and non-confiscatory, one of which decision is in the case of Sharadaben vs. State of Gujarat, Letters Patent Appeal No.432 of 2018, wherein it has been held that 'Section 79A does not provide for forfeiture or vesting of land in the State. The revenue authority cannot travel beyond the statute and impose consequences not contemplated by the Act.' It has been further held that the Collector has no jurisdiction to annul a registered transaction or declare that land shall vest in the State free from encumbrances.'.

6. Learned advocate Mr. Abhichadani further submits that the similar view has been followed by another Division Bench of this Court in the case of State of Gujarat vs. Kunjalbhai Lalitbhai Patel in Letters Patent Appeal No.1052 of 2021, wherein it has been held that 'exercise of powers under Section 79A is limited to summary eviction. Confiscation or resumption of land is beyond the jurisdiction of the authority.' The similar view has also been followed by this Court in the case of Akshat Associates vs. Special Secretary (Appeals), Revenue Department, in Special Civil Application No.7752 of

2016. He also submits that the aforesaid tenets of law as enunciated by the Division Bench of this Court as well as the Single Judge is squarely applicable to the facts of the present case. He further submits that the revenue authorities, by assuming powers equivalent to forfeiture/cancellation of lawful rights, acted as if exercising appellate or revisional jurisdiction, which is a jurisdiction expressly absent under Section 79A of the Bombay Land Revenue Code. Learned advocate Mr. Abhichandani, thus, submits that in view of the aforesaid judicial pronouncements and precedents, it is confirmed that any order purporting to vest land in the State Government through Section 79A is beyond the four corners of the statute. Learned advocate Mr. Abhichandani further submits that in view of the aforesaid tenets of law, it is crystal clear that Section 79A, does not, in any manner, confer any power of forfeiture or the power of vesting or the annulment of registered transactions. He submits that the said provision is very narrow and summary in nature, and not adjudicatory, and as such, it can definitely be said that the impugned orders are passed without jurisdiction.

7. Learned advocate Mr. Abhichandani further submits that the mutation entry in favour of the writ applicants was certified in the year 1992, and surprisingly, the revenue authorities have exercised and initiated suo motu proceedings in the year 2003, and as such, there is a huge delay of 11 years in initiating the said proceedings, which is wholly unexplained. Learned advocate Mr. Abhichandani also submits that so far as exercise of suo motu power after unreasonable delay is

concerned, this Court in the case of Devjibhai Kalabhai Patel vs. Collector, Rajkot in Special Civil Application No.21269 of 2017, has very categorically held that ‘suo motu powers must be exercised within a reasonable period. A delay of 11 years without explanation is wholly unreasonable and vitiates the proceedings.’ It has been further held and observed that ‘the authority cannot suddenly awaken after more than a decade and unsettle vested rights’. Learned advocate Mr. Abhichandani further submits that the aforesaid view taken by the Single Judge in Devjibhai Kalabhai Patel (supra) has now attained finality, having been confirmed by the Division Bench of this Court in Letters Patent Appeal No.4963 of 2025, decided on 21.04.2025. He submits that the Division Bench has also very categorically held that the suo motu action initiated after 11 years suffered from gross and unexplained delay, and that such delay itself was fatal, rendering the Collector’s order liable to be set aside. He also submits that this authoritative pronouncement of the Division Bench directly supports the case of the writ applicants, as the factual matrix and the period of delay (11 years) are identical, and as such, the present proceedings stand vitiated per incuriam, both for jurisdictional error and for gross and unexplained delay.

8. Learned advocate Mr. Abhichandani further submits that the delay of around 11 years in initiating proceedings under Section 79A is fatal in light of the settled principles laid down by the Hon’ble Supreme Court in the case of Karnataka Power Corporation Ltd. vs. K. Thangappan (2006) 4 SCC 322, wherein it has been held that unexplained delay and laches disentitle a

litigant from relief, and even where legal or fundamental rights are invoked, the Court may refuse to exercise its extraordinary jurisdiction under Article 226 if the applicant has slept over his rights to the prejudice of the opposite party. Simiarly, in City Industrial Development Corporation vs. Dosu Ardeshir Bhiwandiwala, (2009) 1 SCC 168, the Hon’ble Supreme Court reiterates that courts, exercising public law jurisdiction do not encourage the agitation of the sale claims, and that inordinate delay by itself is an adequate ground to refuse relief, particularly where third party rights or long-standing factual positions have crystallized. Further, in Babulal Badriprasad Varma vs. Surat Municipal Corporation, (2008) 12 SCC 401, the Hon’ble Supreme Court emphasized that even where a right may theoretically exist, conduct, acquiescence, or prolonged inaction amounts to waiver, and a party who has allowed administrative actions or revenue processes to attain finality cannot subsequently unsettle them after an unreasonable lapse of time. Learned advocate Mr. Abhichandani further submits that applying these binding principles to the present case, initiation of proceedings under Section 79A by the concerned revenue authority after a period of 11 years of absolute silence, without any explanation and contrary to long-standing entries and settled possession, stands vitiated on the ground of gross delay, laches, acquiescence, and extinguishment of equity, rendering the impugned action wholly unsustainable. He also submits that the ratio laid down in the above referred case laws, are directly applicable to the facts of the present case, as the revenue authority has furnished no explanation whatsoever for this inordinate delay. Therefore, the entire proceedings are liable to be quashed solely on the ground of delay and laches.

9. Learned advocate Mr. Abhichandani further submits that apart from the aspect of delay, there are certain resolutions issued by the Government being dated 11.03.1996, 19.10.2000, 20.12.2006, 04.07.2008 and 17.03.2017, a bare reading of which, unequivocally establishes that the lands originally granted as new/restricted tenure should not remain restricted indefinitely, and upon continuous agricultural use for 15 years, the tenure restrictions must be lifted and converted into old tenure. He further submits that these resolutions cast a positive statutory and obligatory obligation on the revenue authorities themselves, including the Mamlatdar, to ensure that such conversion is carried out suo motu, without requiring any application from the agriculturist. He submits that in the case on hand, the writ applicants had already completed more than three decades of continuous cultivation well before 2002, and therefore, by operation of these Government Resolutions, the land was required to be converted to old tenure, and the revenue record was required to be updated accordingly by the authorities. He further submits that all the aforesaid resolutions mandated conversion of the land into old tenure, rather than punitive action.

10. Learned advocate Mr. Abhichandani further submits that apart from the settled legal position with regard to initiation of proceedings under Section 79A at a belated stage, as also several Government resolutions, entitling the writ applicants for conversation of the land, even on merits, the writ

applicants, by no stretch of imagination, can be said to be an 'unauthorized occupant', so as to attract proceedings under Section 79A of the Gujarat Land Revenue Code. He also submits that the writ applicants are the lawful purchasers of the land in question under a duly registered sale deed, which continues to remain valid, operative and wholly unchallenged till date. He further submits that it is well-established principle of law that unless a registered conveyance is set aside, cancelled, annulled, or declared void by a competent civil court exercising plenary jurisdiction under Section 34 of the Specific Relief Act and allied statutory provisions, the titled conveyed thereunder remains absolute, binding, and enforceable. He also submits that in the absence of any civil proceedings, challenging the writ applicant's title or seeking cancellation of the registered sale deed, the revenue authorities could not have assumed jurisdiction to dub the writ applicants an 'unauthorized occupants'. Learned advocate Mr. Abhichandani further submits that the suo motu exercise of powers under Section 79A is wholly inapplicable, arbitrary, and bad in law, as Section 79A is attracted only in cases of actual unauthorized occupation, and not where the person is a bona fide purchaser holding title under a subsisting, unassailed registered document. He submits that the very assumption of jurisdiction is thus fundamentally flawed, and on this ground alone, the impugned order deserves to be quashed.

11. Learned advocate Mr. Abhichandani further submits that the aforesaid legal position is no longer res integra in view of the binding decisions of this Court. In Sharadaben vs. State of Gujarat, Letters Patent Appeal No.432 of 2018, the Division

Bench of this Court has very categorically held that 'Section 79A does not empower the Collector or any revenue authority to annul a registered sale deed, nor to vest land in the State, nor to invalidate the title of a purchaser under a registered conveyance. He also submits that in view of the bindings judicial pronouncements directly covering the issue, the impugned action is wholly without jurisdiction, vitiated by gross delay, contrary to Government Resolutions, and legally unsustainable on multiple independent grounds. He submits that the writ applicants, being a bona fide purchasers under a valid and unchallenged registered sale deed, cannot be branded as an unauthorized occupant so as to attract Section 79A.

12. In such circumstances, referred to above, learned advocate Mr. Abhichandani prays that there being merit in the present application, the same be allowed, and the relief, as prayed for, be granted.

13. On the other hand, the present application has been vehemently opposed by learned AGP Ms. Surbhi Bhati appearing for the State-respondents. She submits that, no error, not to speak of any error of law, could be said to have been committed by the revenue authority in passing the impugned order. She further submits that none of the fundamental rights of the writ applicants have been violated because of any action or inaction on the part of the respondent. Learned AGP Ms. Bhati also submits that the subject land was originally belonged to one Raja Bechar, and upon death of Raja Bechar, names of his legal heirs were mutated in the revenue record. Learned AGP Ms. Bhati has

placed on record a chart with regard to mutation of entries, and submits that at the time of mutating entry being Mutation Entry No.200 on 07.05.1965 in the name of one Bechar Pala, it is clearly mentioned therein that the said land was a Government waste land, and was allotted to him on 'Santhni' basis. She submits that it is true that at the time of mutation of the aforesaid entry, nowhere it is mentioned that the land in question is a new tenure land, however, it is clearly mentioned that the same was given to Bechar Pala on 'Santhni' basis, and as such, the same can be considered to be a new tenure land. Learned AGP Ms. Bhati further submits that the revenue record does not mention that whether the land in question is a new tenure land or an old tenure land. She also submits that as per the revenue record, initially the land was allotted to one Bechar Pala, an entry to that effect also came to be mutated in the revenue record being Entry No.200 on 07.05.1965, clearly stating therein that the same was given to him on 'Santhni' basis. Thereafter, entry being Entry No.318 on 30.01.1968 also came to be mutated in the name of Raja Bechar on 30.01.1968, and thereafter, upon sad demise of Raja Bechar, an entry being Entry No.649 came to be mutated in the revenue record in the name of his heirs. Thereafter, the land was purchased by the writ applicants from the legal heirs of Raja Bechar, and an entry to that effect also came to be mutated in the revenue record being Entry No.650 on 21.09.1991. Learned AGP Ms. Bhati further relies upon a Government Resolution of 1969, wherein it is specifically stated that whenever the Government allots land to any individual, the same is to be considered as new tenure land.

Learned AGP Ms. Bhati further relies upon one judgment in the case of Hanshrajbhai Mohanbhai Patel vs. State of Gujarat, Special Civil Application No.13775 of 2014, wherein it has been held that “A 'santhani' land owned by the Government cannot be transferred to any other person otherwise the very purpose for which the land is allotted is frustrated. If the applicants found it difficult to cultivate a huge parcel of land admeasuring 11-acres, they could have surrendered the land to the State Government. They not only tried to derive profit out of it but a third party also derived the profit out of the same. A transfer does not mean transfer only by way of a registered sale-deed. Strict interpretation of the term transfer is not required to be given in this type of matters. The Court is expected to take a practical view of the matter keeping in mind the object of allotment in view of the policy of the State Government.” She submits that the findings recorded by all the three revenue authorities are concurrent in nature, and therefore, they are not required to be disturbed. Hence, she prays that the present application be rejected.

14. Heard the learned counsel for both parties, and examined the record.

15. The question involved in the present case is no longer res integra in view of the decision of the Hon’ble Apex Court in the case of JOINT COLLECTOR RANGA REDDY DISTRICT & ANOTHER Vs. D.NARSING RAO AND OTHERS - (2015) 3 SCC 695, wherein the Hon’ble Apex Court has dealt with exercise of suo- motu revisional powers after nearly 5 decades and has ruled that unexplained and inordinate delay in invoking such power

would itself tantamount to fraud upon statute apart from being arbitrary and opposed to rule of law. Useful reference can be made to the observations made in paragraphs 14, 16 & 17 which read as under:

> *"14. Admittedly, the names of the predecessors-in- title of the respondents are found mentioned in the khasra pahani of the year 1954-1955 pertaining to Survey Nos.36 and 37 of Gopanpally Village. The purchase of the said lands by the respondents from them under registered sale deeds are also not seriously disputed. The further fact is that they have been regularly paying land revenue continuously since the year 1954. The appellants herein issued impugned notice dated 31-12-2004 under Section 166-B of the A.P. (Telangana Area) Land Revenue Act, 1317 F (1907) for cancellation of entries in the khasra pahani of the year 1953- 1954, by fixing the date of inquiry as 5-2-2005 and that notice is the subject-matter of challenge here.*
>
> *16. No time-limit is prescribed in the above section for the exercise of suo motu power but the question is as to whether the suo motu power could be exercised after a period of 50 years. The Government as early as in the year 1991 passed an order reserving 477 acres of land in Survey Nos.36 and 37 of Gopanpally Village for house sites to the government employees. In other words, the Government had every occasion to verify the revenue entries pertaining to the said lands while passing the Government Order dated 24-9-1991 but no exception was taken to the entries found. Further the respondents herein filed Writ Petition No. 21719 of 1997 challenging the Government Order dated 24-9-1991 and even at that point of time no action was initiated pertaining to the entries in the said survey numbers. Thereafter, the purchasers of land from Respondents 1 and 2 herein filed a civil suit in OS No. 12 of 2001 on the file of the Additional District Judge, Ranga Reddy District praying for a declaration that they were lawful owners and possessors of certain plots of land in Survey No. 36, and after contest, the suit was decreed and said decree is*

allowed to become final. By the impugned notice dated 31-12-2004 the suo motu revision power under Section 166-B referred to above is sought to be exercised after five decades and if it is allowed to do so it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties over immovable properties.

17. In the light of what is stated above we are of the view that the Division Bench of the High Court was right in affirming the view of the learned Single Judge of the High Court that the suo motu revision undertaken after a long lapse of time, even in the absence of any period of limitation was arbitrary and opposed to the concept of rule of law. "

16. Reiteration of this aspect is again found in paragraphs 30 and 31, where the Apex Court refers to the decision in the case of DEHRI ROHTAS LIGHT RAILWAY CO. LTD. Vs. DISTRICT BOARD, BHOJPUR - (1992) 2 SCC 598 and in paragraph 31 where principal of law is laid down as under:

"31. To sum up, delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third-party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority."

17. In the present case also there is delay of 11 years in initiating suo-motu proceedings after the certification of Entry No.650 in the year 1992 in favour of the writ applicants. Therefore, facts in the present case and facts of the aforequoted decisions of the Apex Court are similar in nature so far as the nature of the dispute and the extent of delay are concerned. Hence, even in this case, it can safely be said that exercise of power by the Assistant Collector tantamounts to arbitrary and illegal exercise of such power.

18. Moreover, when the question of delay comes, then all other issues including breach of any of the provisions would not have much relevance in view of the judgment of the Hon'ble Apex Court in the case of State of Gujarat vs. Patel Raghav Natha, reported in 1969 (2) SCC 187. Similarly, in a judgment reported in the case of Santoshkumar Shivgonda Patil & Ors. v. Balasaheb Tukaram Shevale & Ors., reported in (2009) 9 SCC 353; 2009 AIR SCW 6305, it has been observed that such power cannot be exercised beyond a reasonable period. It has been observed thus;

> *"...Having regard to the fact that the proceedings came to be initiated after delay of more than about three years and that the petitioner is not guilty of fraud or suppression, the impugned proceedings and order cannot be said to have been initiated within reasonable time inasmuch as undisputedly the notice under the Act was issued in 2005. The proceedings and the order are hit by the vice of delay..."*

19. Further, the Hon'ble Division Bench of this Court in a judgment reported in 2013(2) GLR 1788 in the case of Chandulal Gordhandas Ranodriya and Ors. v. State of Gujarat

& Ors. had considered this aspect with reference to the delay in exercise of such powers and the reasonable period. It has been observed as under;

> *"It must be fairly said that if the statute does not prescribe time- limit for exercise of revisional powers, it does not mean that such powers can be exercised at any point of time even if there is a breach of Section 43 of the Act, which is a provision which relates to a new tenure land, rather it should be exercised within a reasonable period of time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. It is clear from various judgments of the Supreme Court that where a statutory provision for exercise of any suo motu powers of revision does not prescribe any limitation, the powers must be exercised within a reasonable period of time even in the case of transaction which would be termed as void transaction.*"

20. Thus, the moot question is what could be considered to be "reasonable time" when the statute does not provide for any time-limit for exercise of such powers. The Division Bench of the High Court in the aforesaid judgment in the case of Chandulal Gordhandas Ranodriya (supra) has observed in para 38 referring to an earlier judgment reported in (2003) 4 SCC 488,

> *"As observed in Veerayee Ammal v. Seeni Ammal, 2002(1) SCC 134, it is "looking at all the circumstances of the case, a "reasonable time" under ordinary circumstances; as soon as circumstances will permit; so much time as it is necessary under the circumstances, conveniently to do what the contract requires should be done; some more protracted space than 'directly; such length of time as may fairly, and properly, and reasonable be allowed or required, having regard to the nature of the act or duty and to the attending circumstances; all these convey more or less the same idea".*

Further, it has been observed,

> *"That is a reasonable time that preserves to each party the rights and advantages he possesses and protects each party from losses that he ought not to suffer (Advanced Law Lexicon by P. Ramanatha Aiyar, 3rd Edn., 2005"*

21. That apart, the principles laid down in the judgments relied upon by the learned counsel appearing for the writ applicants also apply to the facts of the present case on all fours.

22. Thus, in view of the submissions made by both the sides coupled with aforesaid decisions and the material placed on record, it is an undisputed fact that the land in question belonged to the heirs of one Raja Bechar, who sold the land in question to the writ applicants way back in the year 1990, and an entry to that effect was also certified.. Aforesaid entry came to be taken into revision by the respondent No.3- Assistant Collector after delay of almost 11 years. It reveals from the record that the ground raised is that there is a breach of condition (Sharat Bhang). However, it appears that no proceedings had been initiated to declare the sale deed to be null and void, and the same has remained unchallenged all throughout. It also appears that mutation entry remained on record for a long period of time and that entry was never challenged by anybody. The revenue authority was within the knowledge of the said entry. The impugned order came to be passed in the RTS proceedings, vesting the land to the State Government solely on the ground that there is a breach of condition (Shrat Bhang) while entering into the sale transaction of the land in question. Thus, exercise of power by the

Assistant Collector in RTS proceedings is beyond the scope of power and authority available under the Bombay Land Revenue Code. Moreover, a perusal of the 7/12 extract indicates that since inception when the first entry was mutated in the name of Bechar Pala in the year 1965 and then in the name of Raja Bechar and his heirs and then in the name of the writ applicants, nowhere it is mentioned that the land in question is a new tenure land. Further, the land in question is an agricultural land being cultivated by the writ applicants since decades. Further, as usual, the writ applicants have also purchased the land in question after verifying the revenue record, which does not reflect anywhere that the land in question is a new tenure land, and as such, no breach of condition can be said to have been committed by the writ applicants. On the contrary, the revenue authority ought to have verified the record before certifying the entry.

23. Further, exercise of suo motu powers by the revenue authority or authorities, after an unreasonable, long delay is legally contentious, particularly because it can disrupt settled positions and create third-party rights for individuals who acted in good faith based on the previous state of affairs. While suo motu powers are essential for delivering justice in public interest, judicial precedents highlight that they cannot be exercised at any time, but rather within a reasonable period to protect these third-party interests. Ordinarily, when a long delay occurs, subsequent transactions often happen, such as property sales, acquisitions, or career developments, which are valid when made. A belated suo motu decision might revoke these, causing irreparable loss to innocent parties. The

revenue authority cannot exercise the revisional powers in a casual manner whenever it wants to be, irrespective of the period of limitation, which even otherwise, not vested to it. Exercise of any such power should be within the realm of the provisions of the statute.

24. Lastly, the entry was mutated in the revenue record in the names of the writ applicants on the basis of an entirely legal and valid sale deed being executed upon payment of amount of total sale consideration. Thus, ordering the land of an individual being purchased by executing the registered sale deed, to be vested to the Government by the concerned revenue authority would ultimately, amount to annulment of the sale deed. It is a settled law that the revenue authorities, cannot unilaterally annul sale deeds even if fraud is alleged; such matters must go to a civil court.

25. For all the foregoing reasons, and having regard to the aforesaid settled position of law, the present writ application deserve to be allowed and accordingly stands allowed. The impugned order dated 30.05.2012 passed by the Special Secretary (Appeals), Revenue Department, Polytechnic, Ahmedabad in Revision Application No.MVV/JMN/SNR 76-2008 is hereby quashed and set aside. Rule is made absolute to the aforesaid extent.

(DIVYESH A. JOSHI,J)

VAHID