

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO.17814 of 2023**

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GHELABHAI LAKHMANBHAI KINDERKHEDIYA
Versus
STATE OF GUJARAT

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Appearance :

MR ASIT B JOSHI for the Petitioner.

for the Respondent(s) No. 2,3

MR NIKUNJ KANARA, AGP ON ADVANCE COPY SERVED TO
GOVERNMENT PLEADER for the Respondent No.1.

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 02/01/2024

ORAL ORDER

1. At the outset, learned advocate Mr. Asit B. Joshi appearing for the petitioner submitted that the draft amendment dated 14.12.2023 may be granted. Accordingly, the same is granted. To be carried out forthwith.

2. By way of this petition, the petitioner has challenged the order dated 4.7.2023 whereby the application dated 19.6.2023 of the petitioner for measurement of his land bearing Survey No.104/1 paiki 1 admeasuring 00 Hectare 27 RA 32 Sq. Mts. having an agricultural Account No.153 situated at Keshod Taluka, Dist. Junagadh as well as adjoining parcel of land was rejected on the ground that their office record does not tally with the measurement stated in 7/12 extract. Therefore, according to learned advocate Mr. Joshi, such rejection of the application of the petitioner for measurement of his own land without carrying out actual

measurement at the site would prejudice the right of the petitioner. He, therefore, states that the authority may be directed to carry out actual measurement of the land of the petitioner at site and quash and set aside the order dated 4.7.2023 which has been passed without carrying out actual measurement on site.

3. Though the petition was opposed by learned AGP Mr. Kanara, he could not point out that if the petitioner pays the fees for carrying out measurement once again and accordingly his land is measured by carrying out the measurement at site, how the respondent authority would be prejudiced.

4. Further, it also could not be pointed out that the actual measurement has been carried out at the site pursuant to the earlier application of the petitioner.

5. In view of that, the petitioner may prefer fresh application for carrying out the measurement of the land belonging to the petitioner and if such an application is made and necessary fees for measurement is paid by the petitioner within the time frame that may be prescribed by the respondent authority, the respondent authority is directed to carry out actual measurement of the land in question pursuant to the application that the petitioner may make. Such exercise be carried out by ignoring the earlier communication dated 4.7.2023 made to the petitioner.

6. With the aforesaid direction, the present petition stands disposed of. Direct service is permitted.

Such direction is issued by considering the fact that the

application of the petitioner was rejected by pre-scrutiny office and not by DILR which would indicate that actually, the stage of carrying out measurement of the land of the petitioner has never reached.

(NIRZAR S. DESAI,J)

SAVARIYAA