

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 170 of 2026**

HAZARAT BALAPIR MASUMPIR BAVA DARGAH WAKF COMMITTEE
THROUGH SHAOIKH SHABBIRHUSAIN KALUBHAI

Versus

DEPUTY DISTRICT DEVELOPMENT OFFICER(REVENUE) & ORS.

Appearance:

MR ADITYA T PANCHOLI(13067) for the Petitioner(s) No. 1

CORAM:HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

**Date : 07/01/2026
ORAL ORDER**

1. Heard learned advocate for the petitioner. It is submitted that by a speaking order of eviction dated 24.12.2025, the Competent Authority and the Dy. District Development Officer (Revenue), District Panchayat, Bharuch has passed an order against the petitioner committee to remove the encroachment and hand over the vacant peaceful possession of the subject land to the District Panchayat within a period of 7 days from the date of the order. Learned counsel submits that the petitioner was never served with this order. It is further submitted that by the order dated 02.01.2026 passed under Section 5(2) of the Gujarat Public Premises (Eviction of Unauthorized Occupants) Act, 1972 [“Act, 1972” for short], the Competent Authority has further directed the petitioner to immediately vacate the subject premises in question and further directed the Executive Engineer - respondent No.2 herein to remove the said encroachment on 05.01.2026. Learned counsel submits that even this order has not been served on the petitioner. Learned counsel submits that the petitioner came to know about the

orders impugned only when the authorities have come to subject land for removal of encroachment.

2. Learned counsel submits that the order dated 24.12.2025 clearly states that the petitioner has a right to appeal under Section 9 of the Act, 1972 within a period of 15 days. Learned counsel submits that despite recording such fact in the order dated 24.12.2025, the petitioners have immediately issued order of eviction under Section 5(2) of the Act, 1972 within a period of 10 days thereby curtailing the statutory period available to the petitioner for filing an appeal. Learned counsel further states that the order dated 02.01.2026 passed purportedly under Section 5(2) of the Act, 1972 being an order of execution of eviction and removal is also contrary to the provisions of Section 5(2) of the Act, 1972 in as much as the said order grants 3 days time to the petitioner to remove the encroachment, whereas under the provisions of Section 5(2) of the Act, 1972, the person has to comply with the said order within a period of 30 days from the date of its service. Learned counsel submits that the order dated 02.01.2026 has the effect of curtailing the statutory time period as available to the petitioner for compliance from 30 days to 3 days.

3. Issue Notice returnable on 16.01.2026.

In addition, Direct Service is permitted.

4. Learned counsel for the petitioner is permitted to serve the standing counsel for the respondent, who shall take appropriate instructions before the next date of listing.

5. In the meantime, status-quo as on today shall be maintained till the next date of hearing.

KAUSHIK D. CHAUHAN

(ANIRUDDHA P. MAYEE, J.)