IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 3278 of 2012

With
R/SPECIAL CIVIL APPLICATION NO. 3622 of 2012

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ANJALI BIKES -THRO ITS PROPRE ITOR RAJKUMAR R PANDEY

Versus

STATE OF GUJARAT THRO PRINCIPAL SECRETARY & ORS.

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Appearance:
MR. HARSH D. DESAI(17769) for the Petitioner(s) No. 1
MR. MILAN. B. DESAI(17768) for the Petitioner(s) No. 1
MS POOJA CHOUDHARY, AGP for the Respondent(s) No. 1,4
M/S RJ RAWAL ASSOC.(1987) for the Respondent(s) No. 3
MR. ARCHIT P JANI(7304) for the Respondent(s) No. 2
NOTICE SERVED for the Respondent(s) No. 1,3,4
RULE SERVED for the Respondent(s) No. 5,6

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CORAM:**HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**

Date : 10/06/2026
COMMON ORAL ORDER

1. Heard learned Advocate Mr. Kushal Mehta for learned Advocate Mr. Milan B. Desai for the petitioners, learned AGP Ms. Pooja Choudhary for the respondent-State and learned Advocate Mr. Gaurang Vaghela for M/s R. J. Rawal Associates for the respondent No.3 in both the petitions as well as learned Advocate Ms. Simpal Rathod for learned Advocate Mr. Nandish Y. Chudgar for the respondent No.2 in Special Civil Application No. 3622 of 2012.

2. At the outset, learned Advocate Mr. Gaurang Vaghela on behalf of the respondent-Corporation draws the attention of this Court to decision of a learned Co-ordinate Bench of this Court dated 25.02.2021 in Special

Civil Application No. 14607 of 2011 and would submit that the issue raised in the present petitions are covered by the decision of the learned Co-ordinate Bench. Learned Advocate would submit that the petitioners therein, were identically situated to the petitioners herein and whereas it is submitted that except for the name of the petitioners, the shop number and the suit number, all other aspects remain the same. Learned Advocate would submit that since the learned Co-ordinate Bench has rejected the said writ petition vide decision dated 25.02.2021 and since the same squarely covers the issue raised herein, this Court may reject the present petitions also.

3. The above proposition could not be countered by learned Advocate Mr. Mehta on behalf of the petitioners, more particularly this Court has perused the petitions as well as the affidavit-in-replies and whereas this Court is in agreement with learned Advocate Mr. Vaghela that the petitioners before the learned Co-ordinate Bench were identically situated to the petitioners herein.

4. At the same time, learned Advocate Mr. Mehta would draw the attention of this Court to order dated 29.0.2022 in Letters Patent Appeal No. 425 of 2022 preferred in Special Civil Application No. 14607 of 2011, i.e. the Letters Patent Appeal against the order dated 25.02.2021

passed by the learned Co-ordinate Bench, referred to hereinabove. Learned Advocate would submit that the Hon'ble Division Bench of this Court while refusing to interfere with the decision of the learned Co-ordinate Bench, had reserved liberty in favour of the original petitioners - appellants therein to challenge the order of allotment in favour of the respondent No.5 therein, i.e. the original owner of the land in question. Learned Advocate, taking a cue from the said order, would request that similar liberty, as had been reserved in favour of the original petitioners – appellants before the Hon'ble Division Bench, may be reserved in favour of the present petitioners.

5. Considering the submissions made by the learned counsels, more particularly since it is undisputed that the order dated 25.02.2021 covers the issue raised in both the writ petitions and also considering the fact that the order of the Hon'ble Division Bench dated 29.09.2022 confirms the order of the learned Co-ordinate Bench, relevant portion of the decision dated 25.02.2021 is required to be reproduced herein below :

> "2. The grievance raised in this petition pertains to the allotment of final plot to the petitioners in the draft town planning scheme and without giving the possession of the final plots to the petitioners the possession of the property of the petitioners should not be taken by the respondents.
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> 3. It is not in dispute that the town planning scheme No.51,

Ahmedabad was sanctioned by the State Government under Section 65 of the Gujarat Town Planning and Urban Development Act, 1976 (for short 'the Act, 1976') and pursuant there to the Ahmedabad Municipal Commissioner issued notice under Section 68 of the Act, 1976 read with Rule 33 of the Gujarat Town Planning and Urban Development Rules, 1979 (for short 'the Rule, 1979') in the year 2006. After the draft town planing scheme was sanctioned by the State Government, the Town Planning Officer was appointed and the town planning scheme No.51 (Khokhra), Mhemdabad-East was published. There were civil proceedings initiated by the petitioners against the Ahmedabad Municipal Corporation challenging the aforesaid notices issued in the year 2006, however, notices of motion applications were rejected in the year 2010 in Civil Suit No.47 of 2007 and Civil Suit No.53 of 2007 as the same were not maintainable. The petitioners thereafter preferred the Appeal from Order No.247 of 2007 and Appeal from Order No. 248 of 2007 which were dismissed by this Court (Coram : Hon'ble Mr.Justice Anant S. Dave as he was then) vide judgment and order dated 3rd August, 2010. The petitioners have therefore filed this petition.

4. It is not in dispute that the respondent-Corporation issued notice under Section 68 of the Act, 1976 and Rule 33 of the Rules, 1979 pursuant to the sanctioned town planning scheme. Therefore, this petition is not maintainable. Moreover, the Deputy Estate Officer of the Municipal Corporation has filed an affidavit on 27th June, 2012 wherein, following averments are made :

> *"2. The Answering Respondent being an implementing authority states that Final Plot no. 88 (Original Plot no. 52/2) is already alotted to its Original owner Shri Becharbhai Balabhai Bajania as per "F" form and final award and had removed super structure existed on 12.0 mtr T.P. Road in question for implementation of T P Scheme no. 51(Khokhra ~Mehmdavad). A copy of the map showing superstructure removed by the corporation as well as some of the photographs are annexed hereto and marked as ANNEXURE ~ "R1",*
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> *3. The Answering Respondent states that as provided under*

section 68 of the T. P. Act, 1976, the eviction proceedings have been done by the corporation for implementing the TP Scheme in accordance with the procedure provided under the act.

4. The Answering Respondent further states that earlier Civil Suit no. 47 of 2007 filed by the petitioner no. 2 for declaration and injunction contending that the plaintiff (Petitioner no. 2) is the owner of suit premises situated at Ghodasar, near Cadila Bridge, Anmedabad. The Answering Respondent in the said Civil Suit was directed to consider the question of Compensation or to allot the area as claimed by the plaintiff as early as possible. The Answering Respondent further states that thereafter the petitioner no.2 filed another suit being Civil Suit no. 53 of 2007 and prayed for declaration and injunction inter-alia contending that the plaintiff (Petitioner no. 2) is the owner of the suit premises situated at Ghodasar, near Cadila Bridge, Ahmedabad. The Ld. City Civil Court rejected the said suit on the principle of "resjudicata", however the earlier order was modified to the extent that question of compensation shall be decided by the concerned Town Planning Officer. Copies of the orders are annexed at page 96 and page no. 102 of the petitioner at Annexure K and Annexure L respectively.

5. The Answering Respondent further states and submits that the order passed below exhibit 54 dated 12.07.2010 and dated 16.04.2010 were challenged by the petitioners by way of group of Appeal from Order numbers 245 of 2010 to 248 of 2010. It is humbly submitted that this Hon'ble Court upon hearing the said petitions vide its order dated 03.08.2010 was pleased to reject the said petitions also (A.O.'s). Thus, there is NO question of compensation and allotment of plot remains with the petitioners and stands concluded by the dismissal of petitions.

6. The Answering Respondent further states that petitioners have filed present petition seeking appropriate writ, order or direction, directing Respondents to give appropriate final plots in the same survey numbers having the same commercial potentiality in lieu of their original plot.

> *7. The Answering Respondent states that the scope of giving appropriate final plots to the petitioners herein have already been dealt with by this Hon'ble Court in the Appeal from order no. 245 of 2010 to Appeal from Order no. 248 of 2010. Hence, the present petition would be operated as "resjudicata" and hence the same deserves to be dismissed and not maintainable. Moreover, the plot is question is already allotted handed over to the Original owner as above stated.*
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> *8. Since the petitioners could not obtain any relief in the civil Suits as well as Appeal from Orders, they have preferred present Petition and have tried to start second round of litigation on same grounds.* "
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> 5. In view of the aforesaid averments made in the affidavit-in-reply, the petition would not survive and is accordingly dismissed as the grievance raised in the petition is not in existence as the authority has already allotted the final plot No.88 as per Form "F" and has removed the super structure existed on 12.0 Mtr TP road in question with regard to the implementation of the town planning scheme No.51. Notice is discharged."

6. Having regard to the request made by learned Advocate for the petitioners and the order passed by the learned Co-ordinate Bench and the Hon'ble Division Bench, the following directions, in the considered opinion of this Court, would meet with the ends of justice.

(i) Special Civil Application Nos. 3278 of 2012 and 3622 of 2012 are disposed of as rejected, on basis of the observations of the learned Co-ordinate Bench made in the order dated 25.02.2021 in Special Civil Application No. 14607 of 2011.

(ii) Liberty is reserved in favour of the petitioners herein to challenge allotment of final plot so made in favour of the original owner, if there is any such right available to the petitioners and also subject to just exceptions. It is also clarified that this Court has not expressed any opinion with regard to maintainability of such challenge, if made before appropriate forum.

(NIKHIL S. KARIEL,J)

BDSONGARA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: BHUPENDRASINH DHANESINH SONGARA(HC01082), Private Secretary, at High Court of Gujarat on 15/06/2026 11:44:27