

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2844 of 2026**

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RAJENDRA ALIAS RAJUBHAI JETHANAND LADALA

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR TATTVAM K PATEL(5455) for the Petitioner(s) No. 1

GOVERNMENT PLEADER for the Respondent(s) No. 1

MR MAULIK NANAVATI for NANAVATI & CO.(7105) for the Respondent(s)
No. 9

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CORAM:**HONOURABLE MR. JUSTICE NIRAL R. MEHTA****Date : 02/03/2026****ORAL ORDER**

1. In the earlier round of litigation, the Coordinate Bench of this Court in Special Civil Application No.14907 of 2025, vide its order dated 9.12.2025, noting the submissions of learned advocate for the respondent Nos.4 and 5, observed in Para.3; thus,

"3. Learned Senior Advocate Mr. S. I. Nanavati with learned advocate Mr. Shakti Mathews appeared for respondent Nos. 4 and 5 and submitted that pursuant to directions dated 02.12.2025, a fresh notice dated 03.12.2025 has been served to respondent nos.4 and 5. Therefore, now since notice under Section 260(1) of the Gujarat Provincial Municipal Corporation Act, 1949 (for short 'the Act'), has been served to respondent nos. 4 and 5, reply on their behalf shall be filed shortly. Respondent-Corporation may be directed to provide personal hearing. In relation to the unauthorized construction by respondent nos.4 and 5, in the public

passage of the subject building, learned Senior Advocate submitted that the same may be removed by the Corporation. Further, till order on the Notice dated 03.12.2025, is passed, respondent – Corporation, may be restrain from taking any coercive action, except removal of unauthorized construction in the passage.

1.1 Thereafter, the Coordinate Bench proceeded to issue the following directions :

“6. Considering the above submissions, following order is passed: -

6.1 The private respondent Nos. 4 and 5 are at liberty to file reply to the notice dated 03.12.2025 issued under Section 260(1) of the Act within the time provided therein.

6.2 The respondent authorities are directed to provide personal hearing, if so required,

6.3 Parties are directed to co-operate and once the reply is filed and hearing is over it is open for respondent – Corporation to pass appropriate orders in accordance with law.

6.4 In the meantime, it is open for respondent – Corporation to remove unauthorized construction created in the passage of the building for which no further directions are required.

6.5 Till the decision is taken by passing order to the Notice under Section 260(1) of the Act, respondent authorities are directed not to take any coercive action.”

2. On perusal of the aforesaid, it appears that the learned advocate for the respondents have admitted the unauthorized construction put up by them in the public passage of the subject building and also conceded that the same can be removed by the corporation. Considering the same, this Court issued certain directions wherein it has been categorically

directed to the Corporation to remove the unauthorized construction made in the passage of the building. However, the authorities vide order dated 5.2.2026, appears to have proceeded completely on the different context and quite contrary to their own stand taken by way of affidavit in the earlier round of litigation i.e. Special Civil Application No.14907 of 2025.

3. *Prima facie*, this Court is of the opinion that the municipal authorities have deviated from its own stand, which is not acceptable. The stand cannot be changed conveniently.

4. Under the circumstances, let there shall be an affidavit of the Municipal Commissioner, Vadodara Municipal Corporation, explaining the order dated 5.2.2026.

V.J. SATWARA

(NIRAL R. MEHTA,J)