

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/LETTERS PATENT APPEAL NO. 428 of 2026****In R/SPECIAL CIVIL APPLICATION/1243/2000**

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SITABEN MAGANBHAI PRAJAPATI (DELETED) & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR.SHALIN MEHTA, SENIOR COUNSEL WITH MR SANDIP M
PATEL(5649) for the Appellant(s) No. 1,2,3,3.1,4,5

GOVERNMENT PLEADER for the Respondent(s) No. 1,2

MR DEEP D VYAS(3869) for the Respondent(s) No. 3

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CORAM: **HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE****SUNITA AGARWAL**

and

HONOURABLE MR.JUSTICE D.N.RAY**Date : 13/07/2026****ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)**

1. This Intra-court appeal is directed against the judgment and order dated 23.07.2025 passed by the Writ Court dismissing the writ petition being devoid of merits.

2. The reasoning given in the judgment impugned is that all stakeholders including the petitioners were duly informed about variation in Town Planning Scheme vide communication dated 15.06.1989. Thereafter, the Town Planning Scheme No.23 - [Sabarmati] (first variation) was sanctioned by notification dated 18.02.2000. The notices placed on record as Annexure 'R-3' (to the writ petition) also refer to the notices personally served to the petitioners. The contention raised by

the petitioners that they were not heard prior to the notice, is not acceptable and hence, rejected.

3. Pertinent is to note that the original petitioners / appellants herein are aggrieved by the variation in the Town Planning Scheme and sanctioning of preliminary Town Planning Scheme No.23 [Sabarmati] (first variation) by the State Government under the notification dated 18.02.2000.

4. In the writ petition filed in the year 2000 itself, the grievances of the petitioners were that the draft Town Planning Scheme No.23 was sanctioned by the State Government on 28.11.1965, whereafter preliminary scheme and final scheme were also sanctioned on 12.12.1980 and 22.11.1989; respectively, by the State Government.

5. Before implementation of the Town Planning Scheme by handing over the possession of the final plot No.453 admeasuring 918 sq.mtrs. along with plot No.64 allotted to the petitioners, a draft variation was notified on 26.03.1987 and the Preliminary Town Planning Scheme (First variation) was, thereafter, notified on 18.02.2000, which has led to filing of the writ petition.

6. The submission before the Writ Court was that with the variation brought into force with the Preliminary Town Planning Scheme No.23 (first variation) sanctioned on 18.02.2000, the final plot No.453 admeasuring 918 sq.mtrs. allotted to the petitioners originally has been kept reserved for Ahmedabad Municipal Corporation (AMC) for slum upgradation, and the decision has been taken to pay compensation to the petitioners.

7. The submission is that the entire process of variation of the Town Planning Scheme No.23 finally sanctioned on 22.11.1983 was an exercise conducted without following due procedure. This submission though has been refuted by Mr. Deep D. Vyas, the learned advocate appearing for the respondent AMC, but the fact remains that the petitioners are aggrieved because of the final plot No.453 admeasuring 918 sq.mtrs allotted to them having been taken away in the variation to the Town Planning Scheme, finally sanctioned on 22.11.1983.

8. On the last date fixed, when we have pointed out the learned advocate appearing for the AMC to find out a plausible solution to the issue raised by the petitioners, inasmuch as, the original petitioners / appellants herein are not agreeable to receive compensation, it is submitted by the learned counsel for the respondent, upon instructions, that the only option before the petitioners is to seek for variation of the Town Planning Scheme sanctioned on 18.02.2000 by the State Government reserving final plot No.453 admeasuring 918 sq.mtrs. in favour of the Corporation, in lieu of which compensation is proposed to the petitioners.

9. Taking note of the above, on the request made by Mr. Shalin Mehta, the learned Senior Counsel assisted by Mr. Sandip M. Patel, the learned counsel for the appellants, liberty is granted to the appellants to approach the AMC by moving a proper application seeking variation in the Town Planning Scheme No.23 finally sanctioned on 22.11.1983, varied with the preliminary Town Planning Scheme (first variation) dated 18.02.2000.

10. On such application being filed by the petitioners along with the copy of this order, the AMC shall be required to give due consideration to the request made by the petitioners by making a proper proposal after giving due notice and opportunity to the petitioners to present their cases before the competent authority of the AMC.

With the above, we post the matter on **10.08.2026**.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

SAHIL S. RANGER