

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 3851 of 2026**

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NEHABEN HIRALAL PATEL & ANR.

Versus

MORBI MUNICIPAL CORPORATION THROUGH COMMISSIONER & ANR.

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Appearance:

MR DK NAKRANI(500) for the Petitioner(s) No. 1,2

MR.HEMANG H PARIKH(2628) for the Petitioner(s) No. 1,2

MR DEEPAK P SANCHELA(2696) for the Respondent(s) No. 1,2

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 23/06/2026****ORAL ORDER**

1. Heard learned Advocate Mr. D.K. Nakrani with learned Advocate Mr. Hemang Parikh for the petitioner and learned Advocate Mr. Dipak Sanchela appears for the respondents Nos. 1 and 2.

2. Permission has been granted by this Court for urgent circulation of the present petition today itself, and whereas the same has been taken up by this Court.

3. By way of this petition, the petitioner challenges action proposed to be taken by the respondent-Corporation as regards demolition of the property of the present petitioner i.e., a residential accommodation inter alia on the ground that the petitioner has constructed the property without any permission whatsoever.

4. Considering the submissions, it would appear that the petitioner, who is owner of a property situated at City Survey No. 4347, Plot No.28 admeasuring 309.03 Sq. Mtrs. of New Adarsh Society, Morbi, Gujarat, has

approached this Court inter alia stating that the petitioner had been issued notices by the respondent-Corporation on 24.02.2026 and 09.03.2026 under Section 267 and under Section 260(1) of the Gujarat Provincial Municipal Corporations Act, (for short the GPMC, Act) of the GPMC Act, respectively, and an order dated 09.03.2026 under Section 260(2) of the GPMC, Act.

5. It is further the say of the petitioner during the pendency of such an application, the respondents have, in furtherance of order passed by the Corporation dated 09.03.2026, proceeded to reach the premises of the petitioner for demolishing the same.

6. Learned Advocate Mr. Nakrani for the petitioner would submit that while undoubtedly, the petitioner had started construction without obtaining any development permission, yet, as per the provisions of the General Development Control Regulations (for short “the GDCR”), more particularly provision of Regulation 3.10.1 of the GDCR, the petitioner is entitled to have her application considered for regularization, more particularly the petitioner being ready and willing to pay any penalty as contemplated in the said provision, as may be levied by the Corporation. Learned Advocate also assures to this Court that while at the relevant point of time, there may be some transgressions, more particularly as regards the construction of the petitioner not being in accordance with the Regulations, yet, the petitioner is trying to ensure that the construction is in accordance with law and whereas it is assured to the Court that any construction not in accordance with law, would removed by the petitioner herself.

7. Learned Advocate Mr. Dipak Sanchela appearing for the respondent-Corporation would submit that though the construction of the petitioner is

clearly unauthorized, more particularly since the same was commenced without obtaining appropriate development permission, yet, having regard to the provision 3.10.1 of the Regulations, this Court may pass an appropriate order.

8. Considering the submissions made by learned Advocates, to this Court it appears that while the petitioners had started construction, unauthorizedly, i.e. without obtaining appropriate development permission, yet, this Court cannot be oblivious to the fact that the development of the petitioner is upon her own private land. It also appears to this Court that the petitioner may have transgressed the law, yet, as noticed, Regularization 3.10.1 inter alia empowers the respondents to regularize development, which has been commenced without obtaining development permission, more particularly upon payment of appropriate penalties. This Court has also considered the fact that the premises in question is a residential accommodation.

9. Having regard to the above, to this Court, it would appear that the petitioner is required to be given one more chance to correct her mistake and to make an application before the respondent authorities to have her development regularized, upon payment of appropriate penalties, if applicable. Hence, the following directions are issued :

- (i) The petitioner to make an application to the respondent-Corporation under Regulation 3.10.1 of the General Development Control Regulations, more particularly for grant of development permission with regard to the property situated at 4347, Plot No.28 admeasuring 309.03 Sq. Mtrs. of New Adarsh

Society, Morbi, Gujarat, within a period of two weeks from the date of receipt of this order.

- (ii) The respondent-Corporation is hereby restrained from taking out any coercive steps till the application which would be preferred by the petitioner under Regulation 3.10.1 of the General Development Control Regulations is decided.
- (iii) It is further clarified that the till appropriate decision taken by the Corporation, upon the application preferred by the petitioner, the petitioner is also restrained from carrying out any further development activity on the property in question.
- (iv) Since the development had been carried out by the petitioner before the development permission had been obtained, the respondent-Corporation shall consider that application preferred by the petitioner on its own merits, strictly in accordance with law, and whereas in case the petitioner fulfills all the requirements under the law, the petitioner may be given development permission, albeit after imposing appropriate penalties, as contemplated in Regulation 3.10.1 itself.
- (v) In case the construction of the petitioner cannot be regularized on account of the same not being in accordance with the Rules/Regulations, then the petitioner shall endeavour to have the same removed. In case the petitioner does not remove the same, it will be open for the Corporation take appropriate steps, albeit after following the due procedure as provided under the Act.

9. With the above observations and directions, the present petition stands disposed of. Direct service is permitted.

Y.N. VYAS

(NIKHIL S. KARIEL,J)