

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 5855 of 2026**

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ABBAS M. SHAIKHMAHEMUD, PRESIDENT, SHREE NARMADA
APARTMENT CO.OP.H. SERVICE SOCIETY & ANR.

Versus

SURAT MUNICIPAL CORPORATION & ORS.

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Appearance:

MR NM KAPADIA(394) for the Petitioner(s) No. 1,2

MR DIPESH D SONI(9996) for the Respondent(s) No. 2

MR KAUSHAL D PANDYA(2905) for the Respondent(s) No. 1

MR ARCHIT JANI for the Respondent No. 3, 4

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CORAM: **HONOURABLE MR. JUSTICE DEVAN M. DESAI**

Date : 28/04/2026

ORAL ORDER

1. Heard learned advocate Mr. N.M. Kapadia for the petitioners, learned advocate Mr. Kaushal Pandya for respondent No. 1, learned advocate Mr. Dipesh Soni for respondent No. 2 and learned advocate Mr. Archit Jani for respondent Nos. 3 and 4.

2. The issue involved in the present petition is with regard to the condition of the building which is situated at City Survey No. 2835 Athwa ward having Final Plot No. 135 and 136 in T.P. Scheme No. 5 (Athwa – Umra), more particularly, a building known as Narmada Apartment having Registration No. SA/4345 registered under the Gujarat Co-operative Societies Act, 1962.

3. The plaintiffs – petitioners herein have sought for reliefs of cancellation of notice dated 14.03.2024 issued under Sections 264 and 238 read with Section 268 of the Bombay Provincial Municipal Corporation Act, 1949 by Surat Municipal Corporation – respondent No. 1, herein. It is the contention of learned advocate for the petitioners that pursuant to various notices issued by Surat Municipal Corporation for getting the building repaired, the building in question is under repairing and 70% of work of repairing has been completed. The application, Exhibit – 5, came to be rejected by the learned 8th Additional Civil Judge, Surat on 24.12.2025, against which, the plaintiffs – petitioners herein, preferred Misc. Civil Appeal before the learned District Court at Surat. The learned District Court affirmed the rejection of Exhibit – 5 Application.

4. During the course of hearing, learned advocate for the petitioners contended that the repairing work which has been going on, is as per the norms set out by the Corporation. As against this, learned advocate for the respondent No. 1 – Corporation has strong reservations and contended that no certificate of Structural Engineer has been submitted by the plaintiffs, though, specifically demanded by the Corporation vide

notice dated 18.09.2017. The Record reveals that the plaintiffs have not produced Structural Engineer's Stability Certificate as asked for by the Corporation vide the said notice.

5. Learned advocate for the petitioners submitted that the Assistant Professor Department of Applied Mechanics, Sardar Vallabhbhai National Institute of Technology (SVNIT), Surat be appointed as an expert to visit, inspect and prepare a report with regard to the condition and stability of the building.

6. To such submission, learned advocate for respondent No. 1 – Corporation submitted that the respondent – Corporation has no objection if the Assistant Professor Department of Applied Mechanics SVNIT, Surat is appointed to carry out the work of inspection and preparing a report with regard to condition and stability of the building.

7. In view of the aforesaid submissions, the Assistant Professor Department of Applied Mechanics SVNIT, Surat is directed to visit the disputed building i.e. Narmada Apartment, and inspect the building and, thereafter, prepare a detailed report and sketch indicating the condition, stability and strength of the building within a period of 15 days from the date of receipt of this order.

8. The applicants herein are permitted to make a formal application to the Assistant Professor Department of Applied Mechanics SVNIT, Surat requesting above referred purpose. Upon receipt of a formal written application, Assistant Professor Department of Applied Mechanics SVNIT, Surat is directed to fix date and time of such visit and inspection and shall intimate to the parties in advance. The Assistant Professor Department of Applied Mechanics SVNIT, Surat shall visit, inspect and carry out necessary tests to ascertain the condition, stability and strength of building with specific observation whether building is in habitual condition or not. The report shall also contain whether the repairing work which has been undertaken by plaintiffs is sufficient for the stability and longevity of the building in question.

9. The cost and expenses of such exercise shall be borne by the petitioners. At the time of inspection of the property in question, parties to the present petition are permitted to remain present and give full co-operation to the Assistant Professor Department of Applied Mechanics SVNIT, Surat in the task of inspection assigned by this Court. The report shall be submitted in a sealed cover before this Court. Once the report is submitted before this Court, copy of such report shall be furnished to the respective parties.

10. In light of the aforesaid, issue notice, making it returnable on 12.06.2026. In the meantime, the parties herein shall maintain *status quo* with regard to the possession of the building in question till the next date of hearing.

11. Further, the petitioners herein are permitted to carryout the pending repairing work.

(D. M. DESAI,J)

MUSKAN