

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 8860 of 2025**

=====

FIONA COOPERATIVE HOUSING SERVICE SOCIETY LIMITED

Versus

UNION OF INDIA & ORS.

=====

Appearance:

MR ANSHIN DESAI, LD.SENIOR COUNSEL WITH MR.NANDISH H
THACKAR(7008) WITH MR BHAGIRATH N PATEL(9016) for the Petitioner(s)
No. 1

MR KAUSHAL D PANDYA(2905) for the Respondent(s) No. 6

MR PRADIP D BHATE(1523) for the Respondent(s) No. 1,2,3

=====

CORAM:HONOURABLE MRS. JUSTICE MAUNA M. BHATT

Date : 03/07/2025

ORAL ORDER

1. This petition is filed on the ground that the competent authority of the respondent corporation visited the premises of the petitioner on 17.06.2025 and orally informed that appropriate action, in relation to demolition of few high-rise floors will be taken shortly. For action to be taken, reliance is placed on final order dated 09.08.2021 (Annexure “K” Page-83). Final order at Annexure “K” Page-83 is an order of Airport Authority of India, whereby placing reliance on Rule-6 of the Aircraft (Demolition of obstructions caused by Buildings and Trees etc.), Rules, 1994, the President/ Secretary of the petitioner’s society was directed to reduce the height of building and reference of appeal is also made stating that the order dated 09.08.2021 is an appealable order.

2. Heard learned Senior Counsel Mr.Anshin Desai assisted by learned advocate Mr.Nandish Thackar for the petitioner and learned advocate Mr.Kaushal Pandya for respondent No.6.

3. Learned Senior Counsel Mr.Anshin Desai submitted that though final order dated 09.08.2021 at Annexure “K” (Page-83) is appealable, the appeal could not be preferred since the Developer is competent to file an appeal and in the present case, after having Building Use Permission, administration of the petitioner society is in the hands of the members. However, there is no illegality as alleged. The petitioners are in possession of the subject Apartments which were constructed after having due Development Permission and Building Use Permission. Learned Senior Advocate therefore prayed that coercive action, if any may be stayed.

4. Learned advocate Mr.Kaushal Pandya appeared for the respondent No.6 and submitted that Public Interest Litigation No.63 of 2019 along with Special Civil Application Nos.7402 of 2019 and 7399 of 2019 involving similar issue is pending before Hon’ble the Chief Justice. Therefore, this petition may also be placed along with those petitions involving similar issue. Learned Senior Advocate, could not dispute the above

factual position and submitted that Special Civil Application Nos.13196 of 2021 with 13278 of 2021 (Page-272) are before Hon'ble the Chief Justice. In response to apprehension of petitioners of coercive action learned advocate Mr.Kaushal Pandya for the respondent- corporation submitted that without following due procedure, no coercive action will be taken.

5. Accordingly, parties are directed to file appropriate note before registry and to pursue the same for necessary orders.

(MAUNA M. BHATT,J)

DIPTI PATEL...