

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 3667 of 2025****In R/FIRST APPEAL/1211/2026****With
R/FIRST APPEAL NO. 1211 of 2026****With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/FIRST APPEAL NO. 1211 of 2026****With
CIVIL APPLICATION (FOR AMENDMENT) NO. 2 of 2025
In R/FIRST APPEAL NO. 1211 of 2026**=====
GUJARAT HOUSING BOARD, CHAIRMAN & ORS.**Versus****M/S S.K. DESIGN THROUGH ITS PROP. A. R. PANKAJ KELAWALA & ORS.**
=====**Appearance:****MR BHARGAV HASURKAR(5640) for the Applicant(s) No. 1,2,3,4,5****MR SUREN M SHAH(1118) for the Respondent(s) No. 1****SERVED BY RPAD (N) for the Respondent(s) No. 2,3**
=====**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL****and****HONOURABLE MR.JUSTICE D.N.RAY****Date : 24/03/2026****JUDGMENT****(PER : HONOURABLE MR.JUSTICE D.N.RAY)****ORDER IN CIVIL APPLICATION (FOR CONDONATION
OF DELAY):-**

Having regard to the explanation provided in the application, the delay of 84 days in preferring the First Appeal is hereby condoned. The Civil Application stands allowed.

ORDER IN FIRST APPEAL

1. Heard Mr. Bhargav Hasurkar, learned advocate for the appellants and Mr. Suren M. Shah, learned advocate for the respondent No. 1.

2. Factual matrix, giving rise to this appeal, is as under:-

2.1 The respondent No.1 herein, original plaintiff in Civil Suit No. 679 of 2002 (later renumbered as Commercial Civil Suit No. 420 of 2020), is a professional entity having its registered office at Ahmedabad and engaged in architectural and planning services. The appellants, who were the original defendants, had conceived a housing project at Mahuva, District Bhavnagar, with the object of providing affordable residential accommodation to the public at large. The proposed project was to be undertaken on land admeasuring approximately 75,000 square meters with an estimated cost of Rs. 25 crores.

2.2 In furtherance of the said project, the appellants resolved to engage independent professionals for

architectural and design services through a process of public tender. Prospective purchasers were also required to deposit 10% of the total consideration towards the proposed units. Pursuant to a public notice inviting tenders, the respondent No.1 submitted its bid, which came to be considered by the appellants. A panel of architects and designers was, thereafter, constituted and displayed, wherein the respondent No.1, fulfilling the requisite qualifications, was included at Serial No. 2. Consequently, the work of architectural design and planning was entrusted to the respondent No.1 with effect from November 1998, subject to certain terms and conditions.

2.3 It is the case of the respondent No.1 that, upon such engagement, it formulated and submitted the terms and conditions governing the assignment, which were duly approved by the appellants. Thereafter, in February 1999, the respondent No.1 conducted a site visit at Mahuva, carried out requisite surveys, and submitted survey reports for approval, which were accepted. The respondent No.1 then proceeded to undertake architectural and design work in accordance with the appellants' requirements and raised its professional fees

on 19.02.1999. Certain queries were raised by the appellants from time to time, which were responded to and clarified by the respondent No.1 . Subsequently, upon further requisitions dated 06.03.1999, the respondent No.1 submitted revised and final plans on 16.03.1999. In terms of the arrangement, the respondent No.1 also submitted a quotation dated 26.03.1999 for preparation of a model, which was approved with certain suggested modifications and accompanied by further requisitions for additional plans.

2.4 Thereafter, upon request made by the appellants, the respondent No.1 undertook assessment of land cost and submitted the same on 07.04.1999, which was also accepted. The respondent No.1 continued to carry out substantial work relating to the overall design and planning of the housing units. It is further the respondent No.1 's case in the Civil Suit that a civil engineer was subsequently appointed by the appellants to finalise and reconcile the terms of execution, and additional queries raised in this regard were duly addressed by the respondent No.1, and despite completion of substantial work and repeated demands for payment in accordance with the agreed terms, the appellants allegedly

failed to discharge their financial obligations. The respondent No.1 addressed multiple communications seeking payment; however, no amount was paid.

2.5 In view of the aforesaid circumstances, the respondent No.1 instituted Civil Suit No. 679 of 2002 before the City Civil Court at Ahmedabad for recovery of its dues, which later came to be treated as Commercial Civil Suit No. 420 of 2020. By judgment and decree dated 18.10.2024, the Commercial Court partly decreed the suit and directed the appellants, jointly and severally, to pay a sum of Rs. 49,05,376/- to the respondent No.1 along with interest at the rate of 6% per annum from the date of the suit till realization.

3. Being dissatisfied with the said judgment and decree, the appellants have preferred the present first appeal under Section 96 of the Code of Civil Procedure, 1908 before this Court.

4. The grounds of appeal in the present petition are concise & cryptic and deserve to be quoted for reference, as under :-

“A. That the impugned judgement and decree passed by the learned judge is bad in law and the established principle of

the contract and therefore is required to be quashed and set aside.

B. The learned Judge erred in not appreciating the documentary evidence placed on the record in its correct perspective and erroneously came to the conclusion that the respondent no. 1 is entitled to the claimed amount as prayed in the suit.

C. The learned Judge erred in not considering oral evidence on record."

5. Besides the above quoted grounds, no other grounds have been pleaded. In addition to the above, Mr. Bhargav Hasurkar, learned advocate for the appellants after taking the Court through the impugned judgment dated 18.10.2024 of the learned City Civil Court submitted that the learned City Civil Court ought not to have decreed the suit in its entirety but following the principle of *quantum meruit*, ought to have decreed only the amount which should have been held to be legitimately due to the respondent-plaintiff.

5.1. Mr. Hasurkar further argued that the panel in which the plaintiff was empanelled as an architect came to be cancelled by the High Court in the year 2001 and therefore, also the plaintiff was not entitled to the decree.

6. We have no hesitation in rejecting the first aforesaid

contention of Mr. Hasurkar, inasmuch as, it has been categorically recorded in the impugned judgment in paragraph No. '17' as under :-

"17. Now, in the present case on hand, the plaintiff has filed present suit for the recovery of his due amount from the defendants for his work carried out by him as per the agreement executed by the defendants in his favour. Now, considering the written statement of the defendants, nowhere it is denied on the part of defendant about the execution of the agreement and the work allotted to the plaintiff."

7. We further observe that the defendants though given sufficient opportunity have not produced any oral evidence and therefore, by order below Exh.206, their right to lead oral evidence came to be closed. It will also be seen that the respondent-plaintiff visited the site in the month of February 1999, and carried out the survey of the work as designer and prepared survey sheet which was submitted to the appellant authority for approval and the same came to be accepted by the appellants. The plaintiff commenced the work of design and architecture and submitted its bills for professional charges upon which certain queries were raised by the appellants and satisfactorily explained by the plaintiff.

8. Therefore, on 16.03.1999, final plan as per the specification and requirements of the appellant-housing board was prepared by the plaintiff. Thereafter, based upon the plan prepared by the plaintiff, the appellant carried out effective work of all the houses. It is only in such circumstances that the suit was filed by the plaintiff for recovery of the outstanding amount. Therefore, the learned City Civil Court was right in considering the cross-examination of the plaintiff in paragraph No. '20' of the impugned judgment to hold that the plaintiff has been able to prove that the plaintiff has completed the work allotted for which the appellant has not paid the plaintiff.

9. As far as the second contention of the appellants that due to the cancellation of the panel in the year 2001 which the plaintiff was empanelled since 04.06.1997, the learned Court below has erred in decreeing the suit, such contention deserves to be rejected on two counts. Firstly, the work done by the plaintiff is in 1999 during which the plaintiff validly remained in the panel. Secondly, it has come on record that the Hon'ble Apex Court has stayed the direction of the High Court by which the said panel came to be cancelled, as would

be evident from paragraph No. '21' of the impugned judgment and the same could not be controverted by Mr. Hasurkar.

10. Hence, present First Appeal stands dismissed. Consequently, the Civil Applications stand disposed of. No order as to costs.

(SUNITA AGARWAL, CJ)

BINA SHAH

(D.N.RAY,J)