

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 11547 of 2025**

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DOBARIYA VIPULBHAI VALLABHBHAI

Versus

MUNICIPAL COMMISSIONER, SURAT MUNICIPAL CORPORATION &
ORS.

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Appearance:

MR. ZAMIR Z SHAIKH(6857) for the Petitioner(s) No. 1

MS POOJA CHAUDHARY, ASST. GOVERNMENT PLEADER for the
Respondent(s) No. 3

MR KAUSHAL D PANDYA(2905) for the Respondent(s) No. 1,2

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 13/07/2026****ORAL ORDER**

1. Heard learned advocate Mr.Zamir Z. Shaikh appearing on behalf of the petitioner, learned Assistant Government Pleader Ms.Pooja Chaudhary appearing on behalf of the respondent - State and learned advocate Mr.Kaushal D. Pandya appearing on behalf of the respondent no.2.
2. By way of this petition, the petitioner has sought for the following prayers:-

“(A) This Hon’ble Court be pleased to admit and allow this petition;

(B) The Hon’ble Court be pleased to quash and set aside all the proceedings initiated by Respondent no.2 u/s 260(1)(a) vide notice no. NORTHEAST (VARACHHA) ZONE/OUTWARD/513 on dtd.

27.01.2021 Annexure-C in the interest of justice.

(C) Pending admission hearing and final disposal of this petition, this Hon'ble Court be pleased to stay the impugned notice at ANNEXURE-F in the interest of justice.

(D) This Hon'ble Court be pleased to issue appropriate writ or order or direction restraining Respondent No.2 not to vacate the land in question from the petitioner till the final disposal of the application in the interest of justice.

(E) This Hon'ble Court be pleased to grant ad-interim injunction in terms of para-C & D above in the interest of justice.

(F) This Hon'ble Court be pleased to grant any other and further relief that is deemed fit and expedient in the interest of justice."

3. It is the case of the present petitioner that he had been issued a notice on 27.01.2021 under Section 260(1)(a) of the Gujarat Provincial Municipal Corporations Act and whereas, it appears that the petitioner had submitted some representation thereagainst, which is not the part of the record and whereas, vide an order dated 26.02.2021, the Corporation while not considering the request, has inter alia

contended that the land in question is reserved for open space in the draft town planning scheme and whereas, the petitioner has made construction upon the said property without taking any permission and whereas, the petitioner was directed to remove the construction on the reserved plot within a period of three days. It also appears that inspite of Section 260 proceedings having concluded in the year 2021 i.e. vide order dated 26.02.2021, yet, after a period of four years again proceedings were initiated under Section 260 and notice was issued to the petitioner on 10.07.2024 and whereas, it culminated into notice dated 16.12.2024.

3.1. Surprisingly, for almost three years and ten months, the Corporation forgets the issue and thereafter again, a notice is issued on 16.12.2024 informing the petitioner that on 10.07.2024, a notice had been issued to the petitioner for demolishing the illegal construction and since the Corporation would not be required to demolish the property, they would be required to enter into the residence of the petitioner and a date of 16.12.2024 was fixed for entering into the property in question.

3.2. It appears that thereafter, the respondent - Corporation

has conveniently against forgotten the issue for a substantially long period of time i.e. till 21.07.2025 when the petition was registered and whereas, though not even a notice issued in the petition till date, the Surat Municipal Corporation has not taken out any proceedings against the petitioner.

4. To this Court, it would appear that the petitioner has challenged a communication / order of the year 2021 whereby the petitioner has been informed that his construction is on a land reserved for open plot and whereas, for a pretty long period of around four years, the petitioner does not appear to have taken any steps with regard to the same, the petitioner waking up after a period of around four years, when the Corporation issued notice dated 16.12.2021 upon the present petitioner. As it is, very surprisingly, the communication dated 26.02.2021 whereby the Corporation has rejected the request of the present petitioner, has also not been challenged.

4.1. Considering the above, to this Court, it would appear that the present petition is highly belated inasmuch as notice of the Corporation dated 27.01.2021 and further communication dated 26.02.2021 have been challenged

before this Court approximately after more than four years. There is no averment made in the petition as regards why the petition is required to be entertained even after such a long delay. It also appears that the only reason why the petition is preferred is a notice dated 16.12.2024 which incidentally has not been acted upon.

5. Considering the above, while it would clearly appear that the present petition is not required to be entertained, more particularly, since it appears that the petition is barred by delay and laches, yet, considering the fact that any adverse order may have adverse consequences on the home of the petitioner, which would result in immense hardships to the petitioner and his family, this Court deems it appropriate to direct the Corporation to afford one more opportunity to the petitioner to clarify his stand. Under such circumstances, to this Court, the following directions would meet with the ends of justice and also balance the equities:-

(i) The respondent Corporation, in case is of the opinion that construction in full or in part is required to be removed, shall issue a fresh notice to the petitioner.

(ii) The petitioner, in case such a notice is issued, shall respond to the same, within the time limit stipulated by the respondent - Corporation.

(iii) The respondent - Corporation shall take an appropriate decision as regards the reply submitted by the petitioner and whereas, liberty is reserved in favour of the petitioner to challenge the same in accordance with law.

6. With these observations and directions, the petition stands disposed of.

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(NIKHIL S. KARIEL,J)