

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 12887 of 2024

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PRIYAVADAN COOPERATIVE HOUSING SOCIETY LTD
Versus
PRINCIPAL SECRETARY URBAN DEVELOPMENT AND URBAN HOUSING
DEPARTMENT & ORS.

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Appearance:

MR SATYAM CHHAYA ADVOCATE WITH MR MANAN K PANERI(7959) for
the Petitioner(s) No. 1

MR SAHIL TRIVEDI AGP - ADVANCE COPY SERVED TO GOVERNMENT
PLEADER/PP for the Respondent(s) No. 1

DS AFF.NOT FILED (N) for the Respondent(s) No. 2,3

MR DEEP D VYAS(3869) for the Respondent(s) No. 4

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CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA

Date : 07/05/2026

ORAL ORDER

[1] By way of this petition under Article 226 of the Constitution of India, the petitioner has called in question the legality and the validity of the Town Planning Scheme No.98 (Kotarpur – Naroda) with respect to allotment of a portion of Final Plot Nos.89 and 90 in favour of respondent authorities by reserving as “open space” and thereby, seeks further direction upon the authorities to vary the Town Planning Scheme under Sections 70 and / or 71 of the Gujarat Town Planning and Urban Development

Act, 1976 (for short, “the Act, 1976”) and allot the said portion in favour of the petitioner – Society. In alternative, the petitioner has also prayed that the land admeasuring 1129 sq. mtrs. forming part of Final Plot Nos.89 and 90 be allotted in favour of the petitioner – Society on recovering of appropriate and reasonable consideration.

[2] During the pendency of the present proceedings, the petitioner – Society appears to have submitted a detailed proposal dated 24th April 2026 before the State authorities as well as before the Municipal Commissioner, Ahmedabad Municipal Corporation. The essence of the said proposal is that instead of retaining the existing narrow and irregular strip of land comprised in Final Plot Nos.89 and 90, the petitioner – Society is willing to offer an alternative parcels of land admeasuring approximately 1055 sq. mtrs. in a consolidated and regular square shape by combining its adjoining vacant land, thereby, enabling the Corporation to have a more viable, usable and practically developable parcels of land.

[3] From the sketch / lay-out placed on record at page : 65 of the petition, *prima facie*, it appears that the petitioner is not

seeking to deprive the Corporation of its entitlement under the Town Planning Scheme, but is rather suggesting more pragmatic and workable arrangement whereby the Corporation would receive land of equivalent utility in a compact and regular form. The map further indicates that the petitioner is prepared to part with the entire entitlement forming part of Final Plot No.89 together with adjoining open land belonging to the petitioner – Society so as to create a single consolidated plot capable of being effectively utilized in accordance with prevailing provisions of the Comprehensive General Development Control Regulations, 2017 (CGDCR, 2017).

[4] Having considered the aforesaid proposal and the material placed on record, this Court is of the *prima facie* opinion that the proposal at least deserves earnest and meaningful application of mind at the end of the respondent – Corporation. This Court cannot overlook the peculiar factual matrix emerging from the part plan of Town Planning Scheme No.98 (Kotarpur – Naroda), which indicates that the land forming part of Final Plot Nos.89 and 90 presently retained by the Corporation is in the

nature of narrow strip with probably a practical limited utility. It further appears that immediately adjoining the said land, the petitioner – Society possesses its own remaining parcels of land, because of which neither the petitioner is in a position to optimally develop its property neither the Corporation is likely to derive maximum public utility from the reserved open space in its present configuration.

[5] From the sketch placed on record, it appears that the proposal of the petitioner may result in a more beneficial arrangement for the respondent – Corporation inasmuch as the Corporation would receive land of proper dimension and better frontage capable of meaningful utilization under the prevailing CGDCR, 2017. At the same time, the petitioner – Society may also be enabled to utilize remaining portion of its land in a plan and integrated manner. *Prima facie*, therefore, proposal appears to be striking a balance between public interest and a private equity.

[6] This Court is also of the view that when a litigant comes forward with a fair and *bona fide* proposal which does not appear

to adversely affect public interest and ultimately may facilitate more effectively implementation of planning objectives, the statutory authorities are expected to examine such proposal pragmatically, objectively and with an open mind.

[7] At this stage, this Court has consciously refrained from entering into the merits of the rival claims or adjudicating the legality of the resolution itself. However, considering the nature of proposal and peculiar facts emerging from the record, this Court is of the opinion that the petitioner's representation deserves due and independent consideration by the competent authority.

[8] Learned advocate Mr. Deep Vyas appearing for the respondent – Corporation has fairly submitted that the Corporation has no serious objection if appropriate directions are issued requiring the competent authority to consider and decide the proposal submitted by the petitioner.

[9] In view of the aforesaid facts and circumstances and without expressing anything on merits of the controversy, present petition is disposed of with following directions:

(i) The petitioner shall be at liberty to submit an additional representation and / or supporting material, if so advised, within a period of two weeks from today;

(ii) Upon receipt of such representation, the respondent – Corporation shall consider the same independently and objectively after affording reasonable opportunity of hearing to the petitioner – Society;

(iii) While examining the proposal, the Corporation shall take into consideration the aspect of effective land utilization, planning feasibility, public interest, applicability of prevailing CGDCR, 2017;

(iv) The competent authority shall take a pragmatic reasoned decision balancing equity between the public interest sought to be achieved under the Town Planning Scheme and legitimate concerns raised by the petitioner – Society;

(v) Such exercise shall be completed within three

months from the date of hearing afforded to the petitioner.

[10] It is clarified that this Court has not adjudicated upon the rights and contentions of either side on merits and all contentions are hereby kept open.

[11] With these observations and directions, present petition stands disposed of. Notice is discharged.

CHANDRESH

(NIRAL R. MEHTA,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CHANDRESH NATVARBHAI SIDDHAPURA(HC01109), PRIVATE SECRETARY, at High Court of Gujarat on 12/05/2026 14:49:40