

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) (WRIT PETITION (PIL)) NO. 109 of 2023**

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PARSHOTTAMBHAI NARANBHAI VAGHELA S/O NARANBHAI VAGELA
Versus
STATE OF GUJARAT

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Appearance:

MR SUBRAMANIAM IYER(2104) for the Applicant(s) No. 1

MR ROBIN PRASAD(9344) for the Applicant(s) No. 1

for the Opponent(s) No. 2,3

MS MANISHA LAVKUMAR, GOVERNMENT PLEADER with MS HETAL
PATEL AGP for the Opponent(s) No. 1

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**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL**
and
HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Date : 29/09/2023

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

1. The petitioner herein claims to be a social worker working for the betterment of the scavengers and slum dwellers. The contention in the writ petition is that the hutment dwellers, whose grievance is being raised in the present writ petition, are poor illiterate persons, who are not in a position to approach this Court on their own. The challenge is to the act of the Mamlatdar in issuing notice dated 23.05.2023 under Section 61 of the Land Revenue Code, 1949, asking the hutment dwellers (103 in number), residing in the hutment known as Malay Talav at Thaltej Village situated on land bearing survey Nos.375, 376, 380, 382, Final Plot No.144/2 of T. P. Scheme No.38 (Thaltej), to vacate the said lands as they fall in Town

Planning Scheme No.38 (Thaltej). The list of 103 hutment dwellers is appended at page 15-16 of the paper-book. It is submitted that these hutment dwellers had been identified and they are entitled for rehabilitation under the Regulations for the Rehabilitation and Redevelopment of the Slums, 2010 framed under the provisions of the Gujarat Town Planning & Urban Development Act, 1976. The hutment dwellers (103 in number), however, have not been considered for rehabilitation by the slum rehabilitation committee constituted under the Regulations, 2010. The submission, thus, is that the eligible slum dwellers, i. e. hutment dwellers (103 in number) cannot be evicted from the site in question by issuance of the notice dated 23.05.2023 by the Mamlatdar, without consideration of their claim for rehabilitation.

2. Ms. Hetal Patel, the learned AGP appearing for the State respondent would submit that the land in question has been allotted to the Ahmedabad Municipal Corporation for beautification of Malay Talav. The copy of the order dated 25.02.2022 passed by the Collector, Ahmedabad for allotment of the aforesaid plot has been placed before us. There is, however, no response as to whether there is a consideration to the claim of the hutment dwellers for rehabilitation, under the Regulations, 2010.

3. Let a notice be issued to the respondent No.2 i. e. Ahmedabad Municipal Corporation to answer the contention of the petitioner, i. e. 103 hutment dwellers, whose names and details are appended at Annexure-A of the writ petition, that they are being evicted forcibly from the land in question without consideration of their claim for rehabilitation. This notice be served in the office of the Ahmedabad Municipal Corporation personally by the petitioner within a period of

one week. Let the response of respondent No.2 be filed. This order be also intimated to the Municipal Commissioner, Ahmedabad Municipal Corporation from the office of the Government Pleader.

4. Let this matter be placed on 18.10.2023. Till the next date of hearing, no coercive measures shall be taken against the hutment dwellers, whose names are indicated herein.

(SUNITA AGARWAL, CJ)

(ANIRUDDHA P. MAYEE, J.)

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