

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 1516 of 2018

In R/SPECIAL CIVIL APPLICATION NO. 10422 of 2018

With

CIVIL APPLICATION (FOR VACATING INTERIM RELIEF) NO. 1 of 2019

In R/LETTERS PATENT APPEAL NO. 1516 of 2018

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NAGCHAND BACHANSING GUSAI

Versus

STATE OF GUJARAT

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Appearance:

MR. S. I. NANAVATI, SENIOR COUNSEL WITH MR AKSHAT
KHARE(5912) for the Appellant(s) No. 1,2

MRS SUMAN KHARE(2226) for the Appellant(s) No. 1,2

MR.K.M.ANTANI, AGP for the Respondent(s) No. 1,2

MR DEEP D VYAS(3869) for the Respondent(s) No. 3

MR. JIT P PATEL(6994) for the Respondent(s) No. 4

MRS VASAVDATTA BHATT(193) for the Respondent(s) No. 2

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**CORAM:HONOURABLE THE CHIEF JUSTICE MR. JUSTICE
ARAVIND KUMAR**

and

HONOURABLE MR. JUSTICE ASHUTOSH SHASTRI

Date : 30/01/2023

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR)

[1] The prayer sought for in this appeal and the prayer sought
for before the learned Single Judge are as under:-

<i>Prayer in Letters Patent Appeal:</i>	<i>Prayer in Special Civil Application:</i>
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7.A) Your Lordship may be pleased to quash and set aside the common order dated 23.07.2018 passed by Hon'ble Single Judge in Special Civil Application No.13546 of 2015 with Special Civil Application No.10422 of 2018; and B) Your Lordship may be pleased to quashed and set aside Town Planning Scheme No. 21 (Motera, Sabarmati, Ahmedabad) qua reconstitution of FP No. 115 & 116 in as much as it takes away 6 meters wide road in front of the residential house of the appellants and also be pleased to direct the respondent no.3 to restore back the possession of the said land pertaining to the internal road in favour of the Harikrupa Sabarmati Cooperative Housing Society Ltd. C) Your Lordship may be pleased to quash and set aside the notice / order dated 09.05.2018 issued by the respondent no.3 Ahmedabad Municipal Corporation passed under Section 68 Rule 33 of the Town Planning Act. D) Your Lordship may be pleased to direct the respondent No.3 AMC & respondent no.4 to remove all iron wires and roads cardoned / barricades lying on the land of the Harikrupa Sabarmati Cooperative Housing Society Ltd. E) During the pendency of the present appeal and till the final disposal of this Letters Patent Appeal Your Lordship may be pleased to stay the implementation of the Town Planning Scheme No. 21 (Motera, Sabarmati, Ahmedabad) as much as it takes away 6 meters wide road in front of house of the appellants through which the appellants can commute in and out of their houses. F) During the pendency of the present appeal and till the final	18.(A) Your Lordship be pleased to admit and allow this Application. (B) Your lordship be pleased to issue writ of mandamus or any other appropriate writ, order or direction to respondent no.3 Ahmedabad Municipal Corporation to quashed and set aside the notice/order dt 9/5/2018 passed u/s.68 Rule 33 of Gujarat Town Planning Act & Rules in the interest of justice. (C) Your Lordship be please to issue writ of mandamus or any appropriate writ, order or direction to respondent no.3 Ahmedabad Municipal Corporation to remove all iron wires and roads cordoned/barricades lying on the land of the Harikrupa Sabarmati Co-operative Society and restored the possession of land to Harikrupa Sabarmati Co-operative Society and present petitioners. (D) Pending admission and final disposal of this petition your lordship be pleased to stay further proceeding of implementation of Town Planning Scheme. 21 Motera, Sabarmati Ahmedabad and meanwhile not to made any construction or development of land in question by respondents. (E) Any other and further relief/s or order, as may deem, just and proper, in the interest of justice."
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disposal of this Letters Patent Appeal Your Lordship may be pleased to direct the respondent No.3 AMC & respondent no.4 to remove all iron wires and roads cardoned / barricades lying on the land of the Harikrupa Sabarmati Cooperative Housing Society Ltd. and to give way for commuting in and out of their houses.

G) Any such and further order may be passed in the interest of justice.

[2] As could be seen from paragraph 7(B) of the prayer made in the appeal, is contrary to what has been prayed before the learned Single Judge. Hence, question of even considering prayer 7(B) in this appeal does not arise. At this stage, Shri Sudhir Nanavati, learned senior counsel fairly submits that prayer 7(B) is not pressed. Hence, prayer 7(B) stands dismissed as withdrawn.

[3] Heard. **Admit.** Post this matter for hearing in usual course. Interim order to continue until further orders.

(ARAVIND KUMAR, C.J.)

(ASHUTOSH SHASTRI, J.)

DHARMENDRA KUMAR