

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 16865 of 2025**

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MINESHBHAI BHOGILAL APTEL & ANR.

Versus

THE STATE OF GUJARAT & ORS.

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Appearance:

MR SATYAM CHHAYA WITH MR DEEP B KOTHARI(12220) for the
Petitioner(s) No. 1,2

MR ABHISHEK JAIN, AGP for the Respondent(s) No. 1,2

MR CHINMAY M GANDHI(3979) for the Respondent(s) No. 3

MS RUMI M GANDHI(3472) for the Respondent(s) No. 3

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CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA

Date : 07/05/2026**ORAL ORDER**

1. The grievance raised by the petitioners is against Notification dated 01st October, 2025 issued by the State in sanctioning preliminary Town Planning Scheme No.4 (Kudasan-Dholakuva).

2. The prime grievance of the petitioner is with regard to deduction qua the contribution of land. It is the case of the petitioners that the State authorities, while modifying the proposed Scheme under Section 65, have altered the contribution of the petitioners towards the deduction of land more than what was proposed under the award passed by the Town Planning Officer under Section 52.

2.1 To substantiate the aforesaid, Learned Advocate for the petitioners has placed reliance on the decision of the coordinate Bench of this Court in case of **Kishanbhai Hargovandas Patel v. State of Gujarat** reported in **2010(0) AIJEL-HC 223273**, of which relevant para-15 is quoted hereunder.

"15. Thus, considering the aforesaid Scheme of the Act while preparing the Draft Town Planning Scheme; sanction it by the State; preparing the Preliminary Town Planning Scheme and sending it to the State Government for its sanction, the persons affected by such Scheme, are required to be served with the notices in Form-F, Form-G, Form-H, Form-I, Form-J and Form-K and at every stage of Draft Scheme as well as Preliminary Scheme, objections and suggestions are invited in the prescribed form the affected persons likely to be affected by such Scheme. Thus, if at the stage of Draft Scheme while preparing the Redistribution and Valuation Statement in Form-F, if a land owner/person is proposed to be allotted a particular Final Plot, his objections and suggestions are invited. After the Draft Town Planning Scheme is sanctioned by the State Government, the Town Planning Officer is required to publish a notice in Form-H in the official gazette and in one or

more Gujarati newspaper circulating within the area of the appropriate authority specifying the matters which are proposed to be decided by him and state that all the persons who are interested in the plots or are affected by any of such matters specified in the notice shall communicate in writing their objections to the Town Planning Officer within a period of 20 days from the publication of notice in the official gazette and before even making and/or preparing Preliminary Town Planning Scheme, the Town Planning Officer is required to give every person interested in any land affected by any of the particular, sufficient opportunity of stating their views and the Town Planning Officer shall not give any decision till he has duly considered their representation, if any. Therefore, if after the Draft Town Planning Scheme is sanctioned by the State Government a particular person/land owner is proposed to be allotted Final Plot "A", such person/land owner has a right to submit his objections and suggestions against the proposed allotment of said Final Plot and the Town Planning Officer is required to consider the same at the time of making or preparing Preliminary Town Planning Scheme and if during such proceedings it appears to the Town Planning Officer that there are conflicting claim or any difference of opinion with regard to any part of the

scheme, the Town Planning Officer is required to record a brief minutes setting out the points at issue and the necessary particulars, and is required to give a decision with the reasons and all such minutes is required to be appended to the Scheme. The Town Planning Officer is required to record and enter in the scheme every decision given by him and is required to send all objections and suggestions received by him, if any, along with the Preliminary Town Planning Scheme prepared by him and sent it to the State Government for its sanction. As stated above, even after the Preliminary Town Planning Scheme is made and prepared by the Town Planning Officer which was being submitted to the State for its sanction, a person/land owner is required to be served with notice in Form-J i.e. the decision taken by the Town Planning Officer while preparing and making the Preliminary Town Planning Scheme which was being submitted to the State Government for its sanction i.e. with the particulars of original Survey Number; original Plot Number; area of Original Plot in square meters; Plot Number of Final Plot allotted; area of Final Plot allotted in square meter and remarks, if any. Suppose in a given case under the Draft Town Planning Scheme a land owner is proposed to be allotted Final Plot "A" which came to be sanctioned by the State Government and after

considering the objections and suggestions, if any, by any aggrieved person that particular owner is proposed to be allotted Final Plot "B" and at that stage that owner who proposed to be allotted Final Plot "B" is informed that under the Preliminary Town Planning Scheme it is proposed to allot him Final Plot "B" in lieu of his original Survey Number - Original Plot Number and thereafter, while sanctioning such Preliminary Town Planning Scheme, the State Government decides to modify the Preliminary Town Planning Scheme proposed by the Town Planning Officer i.e. instead of Final Plot "B" under the Preliminary Town Planning Scheme proposed by the Town Planning Officer, the State Government while sanctioning the Preliminary Town Planning Scheme takes a decision to allot another Final Plot i.e. Final Plot "C", the question whether at that stage and before any decision by the State Government while sanctioning the Preliminary Town Planning Scheme with modification, as stated hereinabove, any hearing/opportunity is required to be given or not? Considering the Scheme of the entire Town Planning Act, as stated hereinabove such an opportunity is required to be given to such owners who are are likely to be affected by such modification. An owner/person adversely affected by such modification of Preliminary Town Planning Scheme suggested by the Town

Planning Officer is required to be given a fair hearing/opportunity, more particularly when at every stage at the time of Draft Town Planning Scheme and/or preparing Preliminary Town Planning Scheme such a land owner / person is informed with respect to proposed Final Plot to be allotted and his objections and suggestions are invited which are to be dealt with by the Town Planning Officer."

3. Considering the aforesaid ratio laid down by this Court, *prima facie*, it appears that prior to Notification, opportunity of hearing is required which is not been given to the petitioner.

4. Let there shall be notice, returnable on 08th June, 2026.

5. In the meantime, there shall be *status quo* with regard to the land in question, to be maintained by both the parties.

Direct service is permitted.

(NIRAL R. MEHTA, J)

ANUP