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C.A.No. 5556 OF 2001
ITEM No.1

Court No. 5

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. Nos.2-3 & 11-12 in Civil Appeal No.5556/2001@@
CC

BHAVNAGAR MUNICIPALITY, BHAVNAGAR

Appellant (s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent (s)

(For directions & permission to file annexures with rejoinder affidavit and to dispense with the filing of affidavit in support of the application and for c/delay & for exemption from filing affidavit & with prayer for interim relief & Office Report)

With Cont. Pet.(C) No. 297/2001 in CA No.5556/2001@@
CC

Date : 22/01/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE ASHOK BHAN

For Appellant (s) Mr. Altaf Ahmed, ASG
Mr. Bhasker P Tanna, Sr.Adv.
Mr. Anip Sachthey,Adv.
Mr. Rashmin Chayya, Adv.
Mr. Umesh Trivedi, Adv.
Ms. Maharook Kerawala, Adv.
Mr. Abhay Kumar,Adv.
Mr. Arijit Prasad,Adv.

For Respondent (s) Mr. Kapil Sibal, Sr.Adv.
(Applicants in Mr. Nirupam Nanavati, Sr.Adv.
IA 2-3) Mr. P.H. Parekh,Adv.
Mr. Haren Raval, Adv.
Mr. Huzefa Ahmadi, Adv.
Mr. Amit Dhingra, Adv.

State of Gujarat Mr. Kirit N. Raval,ASG.
Mr. VK Bhatt,Adv.
Mrs. VD Khanna,Adv.
Mr. SK Sabharwal,Adv.
Mrs. Nirmala Gupta,Adv.
Mrs. Alka Agarwal,Adv. for
M/s I.M. Nanavati Associates

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J.
On 14.1.2002, we directed this matter to be placed before a Bench presided over by Hon'ble Mr. Justice BN Kirpal. His Lordship, by his order dated 17.1.2002, again directed to place this matter before a Bench presided over by one of us (Mr. Justice VN Khare). It is in this way, again this matter has come up before

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We have heard learned counsel for the parties. We are, prima facie, of the view that the interim order dated 17.8.2001 deserves to be modified. We, accordingly, direct that it will open to respondent No.9 to construct dwelling units on the land in accordance with the approved or sanctioned Scheme but such construction would be at its own risk and shall not be a factor in its favour.

Mr. Kapil Sibal, learned senior counsel appearing for respondent No.9, has given an undertaking on behalf of the said respondent that in the event the appeal is allowed, the said respondent would hand over the possession of the land to the appellant after removing the construction which may be raised hereinafter. He has further undertaken that the said respondent would not take any adjournment in the case as and when the matter comes up for final hearing. However, it goes without saying that this interim order is subject to any order that may finally be passed in the appeal.

I.A.No. 2 stands disposed of.

I.A.No.3 is allowed.

I.A.Nos. 11-12 are dismissed as not pressed.

List the Contempt Petition at the time of final hearing of the appeal.

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(Neelam Kawatra)
Court Master

(S. Krishnan)
Court Master