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ITEM NO.1

COURT NO.6

SECTION IX

S U P R E M E C O U R T O F
R E C O R D O F P R O C E E D I N G S

I N D I A

I.A. 2/2015 in Petition(s) for Special Leave to Appeal (C)
14878/2013

No(s).

(Arising out of impugned final judgment and order dated 22/02/2013
in LPA No. 813/2011,22/02/2013 in SCA No. 2563/2011 passed by the
High Court Of Gujarat At Ahmedabad)

SURAT URBAN DEVELOPMENT AUTHORITY & ORS

Petitioner(s)

VERSUS

SACHIN UDHYOGNAGAR SAHAKARI MANDALI LTD

Respondent(s)

(for modification of court's order dated 29.04.2013 and office
report)

Date : 24/07/2015 This application was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s)

Mr. Tushar Mehta, ASG
Mr. Dhaval Nanavati, Adv.
Ms. Hemantika Wahi, Adv.
Ms. Jesal Wahi, Adv.

For Respondent(s)

Mr. Shyam Divan, Sr. Adv.
Mr. Shirish H. Sanjanwala, Adv.
Mr. Amit V. Thakkar, Adv.
Mr. Shamik Sanjanwala, Adv.
Mr. Abhinav Agrawal, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. E. C. Agrawala, Adv.

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

Leave granted.

IA no. 2/2015 has been filed with a prayer as

Signature Not Verified

Digitally signed by
Deepak Mansukhani

follows:-

Date: 2015.07.24

17:21:58 IST

Reason:

"The applicant therefore, most humbly
prays as under:-

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(a) That this Hon'ble Court be pleased to
modify the order of status quo in regard to
further construction, granted vide order
dated 29.4.2013 on such reasonable terms and
conditions as may be deemed fit by this

Hon'ble Court;

(b) That this Hon'ble Court be pleased to direct the petitioner Surat Urban Development Authority to accept, consider the development permission for construction in accordance with the provisions of the Gujarat Town Planning Act and Rules framed there-under and not to reject the same on the ground of pendency of the present special leave petition and/or non obtaining of NA use permission;

(c) Such other and further relief/s this Hon'ble Court may deem fit in the interest of justice."

This IA is filed by the sole respondent in the appeal, who succeeded before the High Court. The dispute in the appeal is regarding the interplay of various enactments operating in the State of Gujarat regarding the land user. Incidentally, a further question whether the applicant is liable to pay any amount towards the land user under the head of conversion charges is also required to be examined. By an order dated 3 rd September, 2013, this Court directed as follows:-

"However, since the respondent has not succeeded in establishing that it was a clear case of grant of approval by the petitioners to the respondent to develop the land as industrial land without any pre-condition for conversion of the land from agricultural to industrial, we deem it appropriate to direct the petitioners to inform this Court on the next date as to how much amount is payable by the contesting respondent towards conversion charges of the land from agricultural to industrial which would make the respondent liable to pay by way of assessment towards land revenue."

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In pursuance of the said direction, an affidavit by the Collector, Surat District, within whose jurisdiction the land in question falls filed an affidavit. It is indicated in the said affidavit that the applicant herein would be required to pay an amount of approximately Rupees 21 crores, apart from the penalty of another Rs. 8 crores approximately (the full details of which are indicated in the affidavit).

Heard Mr. Shyam Divan, learned senior counsel for the applicant and Mr. Tushar Mehta, learned ASG on behalf of the appellants.

In the circumstances, we deem it appropriate to direct the applicant-respondent to deposit an amount of Rs. 21 crores within a period of 8 weeks from today with the Registry of this Court which amount the appellant State of Gujarat would be entitled to withdraw subject to the result of the appeal. In the event of the respondent succeeding in the instant appeal, the State of Gujarat would be liable to refund the amount to be withdrawn as mentioned above, with interest which may be determined at the time of final disposal of the appeal. Insofar as the

amount of penalty allegedly payable by the applicant-respondent is concerned, we are of the opinion that the same can await the final disposal of the appeal.

On the deposit of the amount mentioned earlier by the applicant-respondent within a period of eight weeks, the interim order granted on 29.04.2013 insofar as the applicant-Society is concerned, would stand vacated. However, we are informed that apart from the applicant herein, there are large number of people would have also been governed by the impugned judgment, learned Additional Solicitor General appearing for the appellants prays that

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operation of the impugned judgment be stayed. We, therefore, deem it appropriate to stay the operation of the impugned judgment subject to the exception insofar as sole respondent is concerned.

However, on the amount being deposited, the appellants will consider the applications of the members of the applicant-Society for raising construction on the respective plots of land in accordance with law and same will not be rejected on the ground of pendency of appeal and/or non obtaining of NA use permission.

IA is disposed of in view of the above terms.

(DEEPAK MANSUKHANI)
COURT MASTER

(INDU BALA KAPUR)
COURT MASTER