

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7236 of 2017****With****CIVIL APPLICATION NO. 1 of 2018**

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RAGHUVIR GODADBHAI CHAUDHARY**Versus****COMMISSIONER**

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Appearance:**MR R G CHAUDHARY(6428) for the PETITIONER(s) No. 1****MR CR ABICHANDANI(2421) for the RESPONDENT(s) No. 6****MR DEEP D VYAS(3869) for the RESPONDENT(s) No. 1****MR PR ABICHANDANI(102) for the RESPONDENT(s) No. 6****MS NANDINI JOSHI(1210) for the RESPONDENT(s) No. 5****NOTICE SERVED(4) for the RESPONDENT(s) No. 2,3****VIJAY H PATEL(7361) for the RESPONDENT(s) No. 4**

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CORAM: HONOURABLE MR.JUSTICE A.J. SHASTRI**Date : 28/03/2018****ORAL ORDER**

1. The present petition is filed under Articles 226 and 227 of the Constitution of India for the purpose of seeking following reliefs :

“A. This Hon’ble Court may be pleased to admit this petition.

B. This Hon’ble Court may kindly be order the respondent No.1 and 2 to get opened the parking area i.e. basement and the hollow plinth of the Tulsi Complex which is covered

by respondent No.4, 5 and 6.

C. This Hon'ble Court may kindly order respondent No.4, 5 and 6 to open the covered parking i.e. basement and the hollow plinth which is made by the respondent no.4, 5 and 6.

D. Grant interim stay order to the effect that the respondent no.4, 5 and 6 should not utilize and create any lien over the parking area i.e. basement and the hollow plinth of the Tulsi Complex till the final decision of this petition.

E. Grant such other and further relief as deemed just and proper by this Hon'ble Court in the interest of justice."

2. The case of the petitioner is that petitioner, who is a citizen of India and a practicing lawyer and a retired judicial officer, is in occupation of office Nos.211 and 212, situated in Tulsi complex, near LG Showroom, Mithakhali Six Road, Navrangpura, Ahmedabad which was purchased in the name of brother of the petitioner on 11.1.2009 by a registered sale document. There was a distribution of property amongst the brother and the petitioner and by virtue of that, the petitioner has become the

owner of these two offices bearing Nos.211 and 212, for which agreement came to be executed. It is further stated in the petition that respondent No.5 - Ashish Patel (a builder) had formed an association in the name of Swati Association which is registered under the provisions of the Non-Trading Corporation Act,1990, who had constructed this complex as maternity hospital in 1990 after obtaining permission from respondent No.1 - corporation. It is further asserted in the petition that the plan which has been produced is having different description; the basement is shown as AC Plant of maternity hospital, whereas 3 storied maternity hospital is shown in the plan. By virtue of that irregularity, a grievance is raised by the petitioner that developers and the owners have violated various regulations of GDCR and irregular allotment has taken place with respect to offices in the complex. A grievance which is tried to be voiced out is that basement is illegally occupied by respondent No.4 and the hollow plinth is divided into two parts by respondent Nos.5 and 6 and this hollow plinth is divided in 6 shops, out of which respondent No.5 claims shop Nos.4, 5 and 6 as his properties, whereas respondent No.6 claims occupation of shop Nos.1, 2 and 3 situated in hollow plinth. The respondent No.3 - Swati Association, whose so called chairman Shri Rakesh Swadiya, who is a

builder and good friend of respondent No.5, who happened to be a builder, who constructed this Tulsi Complex and on account of such relationship, irregularity has been committed with respect to allotment of basement and hollow plinth.

3. The petitioner has further asserted in the petition that a substantive Civil Suit No.526 of 2010 was filed by the brother of the petitioner in the year 2010 for seeking declaration and injunction and the same was filed for the purpose of administration of Swati Association and for other incidental reliefs. It is the case of the petitioner that applications at Exh.35 and Exh.84 was filed for the relief of opening of parking and the said applications were contested by submitting the replies at Exh.63 and Exh.82 respectively. Ultimately, said civil suit appears to have been withdrawn and meantime for the aforesaid relief, a petition is affirmed on 6.4.2017 which came to be entertained by the Court on 11.4.2017. During the course of pendency of the proceedings, the same appears to have been contested and when it has been observed by the Court that applications have been submitted by respondent Nos.4, 5 and 6 for seeking regularization under the provisions of the Gujarat Regularization of Unauthorized Development Act,2011 and those applications found

to be pending, it was clarified that said applications may be dealt with and corporation is at liberty to decide in accordance with law. Now, this order is passed on 15.12.2017 and thereafter, from time to time, same is adjourned and lastly, appeared before this Court on 7.3.2018. During the course of hearing, at the outset, Mr.Pitambar Abichandani, learned advocate appearing for respondent No.6, has pointed out that there is some typographical error with regard to the description of annexure contained in an affidavit at Page-126 and, therefore, same was requested to be corrected. This has been objected stoutly by the present petitioner, who happened to be a retired judicial officer, on the ground that there is misleading projection of fact on the part of learned advocate and, therefore, no such correction be permitted. It was contended that in fact, said description was deliberately made with a view to give a different impression to the Court and, therefore, said correction may not be allowed.

4. To this, Mr.Pitambar Abichandani, learned advocate, has candidly submitted that no doubt, a mistake has been committed in giving description but, same is through inadvertence and is a typographical error and there was no ill-intention of any nature in such use of the word.

Had there been any ill-intention then, the description might have been given in a different manner and simply is a slip of pen at the behest of stenographer and, therefore, such is not intentional in any manner. Learned advocate has stated that even if that be so, without admitting, learned advocate has submitted that the same is not in any way prejudicially affecting the grievance voiced out by the present petitioner - party-in-person. In fact, these documents were very much part of the record and such inaccuracy may not be fatal in any way to the other side. With a view to candidly admitting such typographical error, even respondent No.6 has filed an affidavit pointing out that use of the word "cellar now got all share certificates" and possession letter, cannot construe as an intentional or deliberate move on the part of petitioner. Said affidavit dated 7.3.2018, copy whereof was already submitted to the party-in-person, who orally objected but no written objection is reflecting nor submitted. Be that as it may, it prima facie appears that it may not be an intentional move on the part of respondent No.6 as these very documents were forming part of the record and ultimately, the decision-making process is yet to take place at the behest of the corporation. As a result of this, such inadvertence on the part of learned advocate is

accepted and such word is allowed to be corrected. This is more so in view of the fact that learned advocate has presented a draft of such affidavit in which also, several corrections were made which are also shown to the party-in-person in the Court. On the basis of it also, it prima facie appears to this Court that such mistake is not intentional nor with a deliberate move. As a result of which, such correction is permitted, more particularly when there is no written objection on behalf of the petitioner and the same is also permitted in view of the fact that this was shown to the party-in-person as well as copy of affidavit by respondent No.6 is also given.

5. With this background of fact, when the present petition is taken up for hearing, the party-in-person has vehemently contended that despite the fact that this grievance is tried to be ventilated since long, in collusion with each other, the respondent authority, namely, the corporation is not deciding the representations which are already submitted and pending on the file. The party-in-person has further contended that this is a glaring example of irregularity committed by the respondents inter-se and with a view to see that everything now to be regularized, the applications for seeking regularization have been submitted before the

corporation authority. It has also been contended that the respondent No.4 is claiming to be the owner of basement, who also is a chairman of respondent No.3 association and they have inter-se distributed the parking area without any valid proof of ownership. It has also been contended that respondent No.5 has illegally occupied the half portion of hollow plinth i.e. shop Nos.4, 5 and 6 and claimed the ownership illegally. The party-in-person has further vehemently objected that the owner and the developer has not kept the parking area sufficient enough as per the regulations contained in the GDCR and the entire building has been illegally constructed. In fact, by joining hands with each other and in collusion, the respondent Nos.4, 5 and 6 have covered the parking area of the basement and the hollow plinth of the Tulsi Complex. It has further been contended that though the civil court where the suit was filed, to which respondents are aware about the fact right from 2013, they have not produced a single piece of evidence and vehemently contended that the building must not be in consonance with the GDCR. For pointing out this irregularity, it has further been contended that the chairman of respondent No.3 association is Shri Rakesh Swadiya and this association was originally registered under the Bombay Non-Trading

Corporation Act which has now repealed in the year 2005 and there is nobody either to inspect or audit the Swati Association and by pointing out these details with regard to the irregularity, the party-in-person has vehemently requested the Court to take a decision in the context of reliefs which are prayed in the petition. For the purpose of strengthening the case, following decisions have been relied upon :

(1) M.I.Builders Pvt. V. Radhey Shyam Sahu, reported in AIR 1999 SC 2468.

(2) Yogeshbhai D. Sheth v. AMC, reported in 1996
(3) GLR 416.

(3) AMC v. Vijay Owners Association, reported in 2000 (3) GLH 510.

(4) Sardar Patel Nagar Cooperative Development Mandal v. State of Gujarat, reported in 2001 (2) GLR 1048.

(5) Harenbhai R. Parekh v. Satishbhai Asandas Krishnani, Administrator of Vinay Arcade, reported in AIR 2004 Guj. 342.

(6) Abdulkarim Gulamnabi Mansuri v. Janata Commercial Co.op. Bank Ltd. & Ors., reported in 1998 (2) GLH 226.

(7) A decision of this Court in case of Aziz Mohammedkhanji Rustomkhanji Malik v. Surendranagar District Panchayat, rendered in SCA No.4609 of 2015.

(8) Empire Construction & Hotel Company Ltd. v. Municipal Corporation of the city of Ahmedabad & Ors., reported in 1995 (2) GLH 409. (Note B)

(9) Meman Mamad Haji Abdul Sakur v. Abdul Gafar Haji Abdul Sakur, reported in 1993 (1) GCD 350 : 1992

(10) Shashikant Natvarlal Patel v. Arvindbhai Bhupatbhai Gohil, reported in 2010 (1) GLH 302.

5.1 By referring to these decisions, it has been specifically contended that despite the aforesaid situation which is prevailing, neither the corporation has taken any decision nor any steps are initiated in this regard, which has ultimately led the party-in-person to file the present petition before this Court under Articles 226 and 227 of the Constitution of India. No other submissions have been made.

6. To meet with the stand taken by the party-in-person in the present petition, Mr. Deep D. Vyas,

learned advocate appearing for the corporation, against whom the allegation with regard to not taking the decision is attributed in the petition, has vehemently submitted that this petition is nothing but a clear device of projecting the inter-se dispute amongst the members of the association and trying to drag the corporation in the internal dispute amongst the members. While taking such plea, learned advocate has, no doubt, clarified that the authority under this set of circumstance is not mindful of not taking any decision. On the contrary, it is an obligation of corporation to take appropriate decision in accordance with law. But it is only on account of the fact that series of representations having been made, filing of one after another litigation which took place which has practically thwarted the decision-making process of corporation and since the corporation was made are about pending litigation, the decision appears to have not been taken. However learned advocate has candidly submitted that even whatever time this Court prescribes, the decision will be taken by the respondent authority. It has also been contended by Mr.Vyas, learned advocate, that these applications which are pending for seeking regularization are opposed by present petitioner by way of filing detailed objections and since the civil suit was also later on

withdrawn, the decision in the meantime was not possible to be taken. However, the same will be taken in the time bound schedule to be prescribed by this Court, as well.

6.1 Mr. Deep D. Vyas, learned advocate, has further submitted that apart from this fact, the present litigation which is generated by the petitioner is aimed at some different circumstance, unknown to the respondent - corporation. But chronology of event would be sufficient enough to indicate the fact of generating the litigation. Initially, the Civil Suit No.526 of 2010 was filed before the City Civil Court, Ahmedabad and during the pendency of that suit, even an appointment of receiver was also sought under Section 40 of the CPC. It has also been mentioned that apart from this, a specific application was given for this very kind of relief which is sought in the petition by submitting an application at Exh.35 in the said civil suit. By inviting attention to the said application Exh.35 (Pg.148 of the petition compilation), Mr. Vyas, learned advocate, has submitted that in such a background of fact, to permit the petitioner to invoke extraordinary jurisdiction would tantamount to allowing the abuse of process of law by the petitioner. The entire grievance is reflecting a motive behind

this and, therefore, the corporation appears to have been unnecessarily dragged on. However, be that as it may, the corporation will decide this pending application including objections raised by the petitioner in a time bound schedule and ultimately, left the matter to the Court.

7. To this submit and the submission of the petitioner, Mr.Pitambar Abichandani, learned advocate appearing for one of the respondents i.e. respondent No.6 along with Ms.Nandni Joshi, learned advocate for respondent No.5 as well as learned advocate for respondent No.4, have out rightly submitted that if appropriate direction be given to decide the applications which are pending, the same would meet the ends of justice and possibly, can take care of the grievance of the petitioner. Otherwise, as per the say of learned advocates, this is a petition in which seriously disputed questions of fact are arising and only on that ground, the petition can be disposed of. It has been specifically contended that petitioner, who is appearing as party-in-person and a retired judicial officer, is putting his entire experience in this litigation. But ultimately learned advocates appearing for the respondents have submitted that despite this fact, if ultimately the corporation is to take the decision, they shall have no objection. It

has also been pointed out that the suit has been filed specifically in the month of November, 2012 and thereafter, various applications have been submitted in the said civil suit and the members have been dragged by the petitioner and under the threats of such litigation, the disturbance is being created on frequent occasions. Mr. Pitambar Abichandani, learned advocate, has submitted that right from 28.12.2011, with respect to parking issue, the problems are being created and later on, a specific complaint has also been filed for the purpose of opening of parking on 20.2.2017. As against this issue which is entangled, in which the respondents are also arraigned as party to the litigation but, on the contrary, the respondents are inclined to come out of it. Learned advocate has further contended that this petition has been affirmed by the petitioner on 6.4.2017. At that time, the civil suit was very much pending before the competent civil court and the application Exh.35 was also submitted on 10.8.2011 long back. Now pending this, the moment this Court was kind enough to issue notice on 11.4.2017, a civil suit came to be withdrawn on 20.12.2017 which is clearly reflecting on page-274 of the petition compilation. By referring to the specific pursis, Mr. Abichandani, learned advocate, has stated that this suit has been withdrawn with a specific rider and last

paragraph of said pursis deserves to be referred to like this; "Now, plaintiff wants to withdraw this suit with a liberty to file the same in future, if required. Therefore, the plaintiff may kindly be permitted to withdraw the suit." According to Mr. Abichandani, learned advocate, this is nothing but an abuse of process of law on the part of petitioner to drag the persons in litigation one after other. However, while submitting this, Mr. Abichandani, learned advocate, has stated that this disputed question of fact may kindly be allowed to be examined by the appropriate authority and the petition may not be allowed to be processed any further.

8. Having heard learned advocates appearing for the respective parties and having gone through the entire record, it prima facie suggests that seriously disputed questions of fact are arising in the petition. This very relief of opening of the parking, in essence, is adjudicated by the petitioner right from 2011 and the civil suit has been processed which plaint also suggests that facts in detail are required to be adjudicated at length and, therefore, ex-facie this Court is of the opinion that these details are not to be examined in extraordinary jurisdiction of this Court. However, the Court has noticed that applications submitted by respondent Nos. 4, 5 and 6 are very much pending before the corporation

authority, who is a decision-making authority and it is also noticed that petitioner has also submitted all this in detail with regard to such applications and, therefore, without much dwelling into such factual details, the Court is of the opinion that present petition if to be disposed of by appropriate direction, the same would meet the ends of justice, to which the petitioner insisted that some short period of time be provided so as to see that the grievance can be ventilated and concluded at the earliest.

9. In the background of this fact, since the applications are pending and the corporation has shown genuine inclination to take up the decision at the earliest, to which there appears to be a broad consensus if time is prescribed, the Court deems it proper not to discuss and analyze the judgments which are cited by the party-in-person. Of-course, these judgments which are cited, the principle whereof is not disputed by this Court. Therefore, same are also to be brought to the notice of the corporation, who is a decision-making authority. No doubt, the Court would have discussed and decided the applicability of the same if the petition would have to be disposed of on its own merit, in accordance with law. But since the petition deserves to be disposed of by issuing appropriate directions, the Court has not undertaken such exercise.

10. This Court is also mindful of the proposition of law on the issue of exercise of jurisdiction under Articles 226 and 227 of the Constitution of India. The Apex Court in a decision in case of **Sameer Suresh Gupta TR PA Holder V/s. Rahul Kumar Agarwal**, reported in **2013 (9) SCC 374**. The relevant observations of the said decision, since relevant, deserve to be quoted hereinafter :

"6. In our view, the impugned order is liable to be set aside because while deciding the writ petition filed by the respondent the learned Single Judge ignored the limitations of the High Court's jurisdiction under Article 227 of the Constitution. The parameters for exercise of power by the High Court under that Article were considered by the two Judge Bench of this Court in *Surya Dev Rai vs. Ram Chander Rai and others* (2003) 6 SCC 675. After considering various facets of the issue, the two Judge Bench culled out the following principles:

"(1) Amendment by Act No.46 of 1999 with effect from 01-07-2002 in Section 115 of Code of Civil Procedure cannot and does not affect in any manner the jurisdiction of the High Court under Articles 226 and 227 of the Constitution.

(2) Interlocutory orders, passed by the courts subordinate to the High Court, against which remedy of revision has been excluded by the CPC Amendment Act No. 46 of 1999 are nevertheless open to challenge in, and continue to be subject to, certiorari and supervisory jurisdiction of the High Court.

(3) Certiorari, under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction, i.e. when a subordinate court is found to have acted (i) without jurisdiction - by assuming jurisdiction where there exists none, or (ii) in excess of its jurisdiction - by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

(4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When the subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.

(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.

(6) A patent error is an error which is self-evident, i.e. which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-

drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view, the error cannot be called gross or patent.

(7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred there against and entertaining a petition invoking certiorari or supervisory jurisdiction of High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(8) The High Court in exercise of certiorari or supervisory jurisdiction will not covert itself into a Court of Appeal and indulge in re-appreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.

(9) In practice, the parameters for exercising jurisdiction to issue a writ of

certiorari and those calling for exercise of supervisory jurisdiction are almost similar and the width of jurisdiction exercised by the High Courts in India unlike English courts has almost obliterated the distinction between the two jurisdictions. While exercising jurisdiction to issue a writ of certiorari the High Court may annul or set aside the act, order or proceedings of the subordinate courts but cannot substitute its own decision in place thereof. In exercise of supervisory jurisdiction the High Court may not only give suitable directions so as to guide the subordinate court as to the manner in which it would act or proceed thereafter or afresh, the High Court may in appropriate cases itself make an order in supersession or substitution of the order of the subordinate court as the court should have made in the facts and circumstances of the case."

7. The same question was considered by another Bench in *Shalini Shyam Shetty and another vs. Rajendra Shankar Patil* (2010) 8 SCC 329, and it was held:

"(a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by the High Court under these two articles is also different.

(b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ jurisdiction on High Courts is substantially different from the history of conferment of the power of superintendence on the High Courts under Article 227 and have been discussed above.

(c) High Courts cannot, at the drop of a hat, in exercise of its power of

superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in *Waryam Singh* and the principles in *Waryam Singh* have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in *Waryam Singh*, followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, "within the bounds of their authority".

(f) In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

(i) The High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in *L. Chandra Kumar v. Union of India* and therefore abridgment by a constitutional amendment is also very doubtful.

(j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.

(k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.

(l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.

(m) The object of superintendence, both administrative and judicial, is to

maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

(n) This reserve and exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above.

(o) An improper and a frequent exercise of this power will be counterproductive and will divest this extraordinary power of its strength and vitality."

11. In the background of aforesaid fact, this Court is of the opinion that present petition deserves to be disposed of with following directions:

- (1) The respondent Nos.1 and 2 authorities are directed to take up the applications submitted by respondent Nos.4, 5 and 6 for seeking regularization and along with that, the objections which have been submitted by

the petitioner be also taken up and after examination in detail, shall take appropriate decision with respect to such applications keeping in view the provisions contained under the provisions of the Gujarat Regularization of Unauthorized Development Act, 2011, after proper scrutiny of all details which are to be submitted.

(2) Originally, this respondent No.3 - Association was registered under the provisions of the Bombay Non-Trading Association Act but, by virtue of repealing in 2005, since the same is no longer in effect, Swati Association and its members are permitted to apply and participate in said adjudicating process of deciding the pending applications and objections and the respondent Nos.1 and 2 authorities are directed to pass a detailed reasoned order on its own merits in accordance with law.

(3) Since this issue is entangled amongst the members of respondent No.3 association right from 2011, it is expected that all the parties to the proceedings shall cooperate with the adjudicating process of respondent Nos.1 and 2 and the respondent Nos.1 and 2 authorities shall take appropriate decision within a period of 3 months from the date of

receipt of writ of this Court.

- (4) It is made clear that it shall be open for the respective sides to raise all available contentions which are permissible under the law. It is also clarified that this Court has not expressed any opinion on merit with regard to such grievance which is to be decided by the respondent Nos.1 and 2 authorities.

12. With above observations and directions, present petition stands disposed of. No cost. Notice is discharged.

13. Consequently, the civil application also stands disposed of.

(A.J. SHASTRI, J)

V.J. SATWARA