

(2024) 12 GUJ CK 0041

Gujarat High Court

Case No: Special Civil Application No. 16992 of 2024

Shri Atul Kantilal Mehta & Ors.

APPELLANT

Vs

Vs The Municipal Commissioner
& Anr.

RESPONDENT

Date of Decision: Dec. 18, 2024

Acts Referred:

- Gujarat Regularization of Unauthorized Development Act, 2022 - Section 5, 6, 8, 8(2), 8(2)(f)
- Gujarat Provincial Municipal Corporation Act, 1949 - Section 260(1), 260(2)

Hon'ble Judges: Mauna M. Bhatt, J

Bench: Single Bench

Advocate: Bharat T Rao, G.H Virk, S. H. Virk, Nancy Sheth, Anuj K Trivedi

Final Decision: Dismissed

Judgement

Mauna M. Bhatt, J

1. RULE. Learned Government Pleader Mr. G. H. Virk with learned advocate Mr. S. H. Virk for respondent Nos. 1 and 2 waives service of notice

of Rule on behalf of respondent Nos. 1 and 2.

2. This petition is filed with the following prayers:

âœ“ (a) To admit and allow this petition

(b) To issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, declaring that in view of

provisions of Sec. 5 of the Gujarat Regularization of Unauthorized Development Act, 2022 when application for regularization has been made under

Sec.6 thereof, the notice for demolition issued by respondents remain suspended till the competent authority under the GRUDA Act finally decides the applications (Annexure-W) for regularization made by petitioners for the reasons stated in the memo of petition and in the interest of justice.

(c) Pending admission, hearing and final disposal of the present petition, Your Lordship be pleased to stay the execution, implementation and operation of order/notice dated 23.10.2018 passed by the respondent no. 2 under Sec. 260(2) of the GPMC Act (Annexure-O) and restrain the respondent nos.

1 and 2 from demolishing the building "Salman Avenue" constructed on the land bearing City Survey No. 5459, 5460, 6463 to 5468, Sheet No. 80

Jamalpur-III situated at Astodia Gate Area, Ahmedabad in view of application of regularization of construction made by petitioners under GRUDA

Act (Annexure-W) as per Sec.5 of GRUDA Act for the reasons stated in the memo of petition and in the interest of justice."

3. Pursuant to order dated 13.12.2024, affidavit filed by learned advocate Mr. Bharat Rao dated 16.12.2024 and reply filed by Respondent-

Corporation in Civil Application No. 2 of 2024 in Special Civil Application No. 16579 of 2018 is taken on record. The facts in brief as referred in the

petition are stated as under:

3.1 The Petitioners herein are owners and occupiers of flats/shops situated in Salman Avenue situated on the land bearing Survey No. 5459, 5460,

6463 to 6468, Jamalpur 3, Near Astodia Gate Area, Ahmedabad (hereinafter referred to as "subject property"). The said subject property is

situated in the area of Dastoor Khan Mosque (at a distance of about 180 meters from the mosque), Near Astodia Gate Area, Ahmedabad. Dastoor

Khan Mosque is a protected monument under the provisions of the Ancient Monuments and Archeological Sites and Remains (Amendment and

Validation) Act, 1958 (for short "the Act, 1958"). It is submitted by the Petitioners that the subject property was developed by Moin

Infrastructure LLP - Developer after taking necessary permissions under the provisions of law.

3.2 The details with regard to permissions sought by Developer for development/ construction of subject property is stated here under:

(a) The Developer obtained No Objection Certificate (NOC) for construction of commercial building from Archaeological Survey of India and the competent authority vide communication dated 10.01.2001 (Annexure- A page 30), granted permission, permitting construction of building up to height of 30 meters.

(b) Accordingly, an application with requisite fees was made by the Developer for approval of plan, however, plans were not approved and development permission was not granted.

(c) Since, the Developer could not construct the property, on account of city of Ahmedabad, being affected badly by earthquake of 2001, he made fresh application to Director of Archaeology, Gandhinagar seeking NOC for construction on the land in question. The competent authority vide order dated 10.04.2012 (Annexure-B Page 31), granted permission for construction for 15 meters total height.

(d) Accordingly, the Developer applied on 02.06.2015, to Respondent corporation for commencement certificate (Rajachitthi) for construction. The application dated 02.06.2015, refers to parking + four floor + star cabin + overhead water tank.

(e) The AMC accordingly granted permission dated 05.10.2016 (Rajachitthi) (Annexure-E Page 39).

(f) It is case of the Petitioners that since the Developer was having more FSI, the Developer applied once again for construction permission for ground + 6 floors with the height up to 22.80 meters and the same was granted by an order dated 03.09.2015 (Annexure-F page 42). The facts mentioned hereinbelow, would suggest that the said permission was subsequently found to be forged and fabricated.

(g) In view of order dated 03.09.2015, the Developer applied for development permission (Rajachitthi) to AMC, and the same were sanctioned by an order dated 15.02.2017 (Annexure-G page 44).

(h) Meanwhile, on 02.01.2017, the competent authority of wrote a letter to Ahmedabad Municipal Corporation questioning earlier permission granted by Department of Archeology, Gandhinagar, and to verify the same.

(i) Since, Rajachitthi was given by an order dated 15.02.2017, the Developer constructed the building with ground + 6 floors and entered into

Registered Sale Deeds on 22.09.2018 for sale of respective flats and shops. Building Use permission was also applied.

(j) Thereafter, referring to the communication dated 02.01.2017, a communication dated 23.07.2018 (Annexure-I page 47) was made by the

Department of Archeology, Gandhinagar informing Respondent " Corporation that NOC issued granting permission was for construction up to 15

meters height and any subsequent NOC relied upon by the Developer is forged / fabricated. The commencement permission (Rajachitthi) dated

15.02.2017 was also questioned.

(k) With regard to the forged / fabricated No Objection Certificate granted, criminal proceedings are pending.

(l) In view of the NOC from the competent authority being found to be forged / fabricated, AMC issued notice dated 16.10.2018 (Annexure-L page

65) under Section 260(1) of the Gujarat Provincial Municipal Corporation Act, 1949 (for short "the GPMC Act") providing 3 days" time

failing which demolition of 5th and 6th Floor was indicated. The Developer filed reply dated 16.10.2018, seeking more time. Ignoring the said request,

AMC sealed the subject property by an order dated 19.10.2018 (Annexure-M page 67).

(m) The Developer challenged the order of seal dated 19.10.2018, by filing Special Civil Application No. 16579 of 2018. A Civil Application No. 1 of

2018 was also filed in Special Civil Application No. 16579 of 2018 seeking direction for opening of the seal, wherein order dated 08.03.2019 was

passed. Special Civil Application No. 16579 of 2018 is still pending.

(o) During pendency of Special Civil Application No. 16579 of 2018, one more notice dated 23.10.2018 (Annexure-O page 71) under Section 260(2)

of the GPMC, Act was served upon the Developer therein providing 3 days" time to remove the illegal construction failing which demolition was

indicated.

(p) It is also pertinent to highlight that during the pendency of the Special Civil Application No. 16579 of 2018, the Developer had applied to National

Monument Authority, to re-consider granting permission of 22.80 meters height and the same was rejected by an order dated 25.01.2019. The order

dated 25.01.2019 was challenged in Special Civil Application No. 6229 of 2019 and this Court permitted the Developer to make an application before

National Monument Authority and directed to decide it afresh. Once again National Monument Authority, rejected the application by an order dated 07.08.2019.

(q) The order dated 07.08.2019 was challenged in Special Civil Application No. 19043 of 2019, wherein this Court by an order dated 16.12.2019,

recorded the statement made by the counsel for the National Monument Authority that they shall withdraw the order dated 07.08.2019 and decide the

application of the Developer afresh. The Court also directed the exercise to be completed by 31.03.2020. The said application was thereafter rejected

by order dated 22.09.2021. In the order dated 22.09.2021, the application of Developer seeking height of 22.80 meters was rejected.

(r) The order dated 22.09.2021, was subject matter in Special Civil Application No. 16383 of 2021 filed by Developer wherein this Court permitted

fresh application. Vide order dated 16.03.2022, this Court quashed the order dated 22.09.2021 and directed the Developer to apply afresh for

permission and also to the National Monument Authority to consider the said application in accordance with law.

(s) The fresh application by the Developer was rejected by an order dated 23.01.2023 (Annexure-S page 95). The Special Civil Application No. 7035

of 2023, filed by Developer challenging order dated 23.01.2023, is pending and notice has been issued.

(t) During pendency of the above petition, the Developer filed an application dated 11.05.2024 before AMC seeking regularization of construction and

the same was rejected by an order dated 28.10.2024 (Annexure-V page 117).

(u) It is alleged that pursuant to the rejection of application under the Gujarat Regularization of Unauthorised Development Act, 2022 (for short

â€˜GRUDA Actâ€™) by an order dated 28.10.2024, the Respondent AMC has initiated action to demolish subject property. The Petitioners being

residents of subject property have filed this petition, seeking urgent relief of staying demolition.

(v) It is also contended under Paragraph 38 of memo of petition that news items are appearing in the newspapers that the Respondent- Corporation

will demolish the construction of the Petitioners and hence, the Petitioners have filed the captioned petition.

4. Heard Learned Advocate Mr. Daxesh Patel for Learned Advocate Mr. B.T. Rao for the Petitioners & Mr. G.H. Virk, Learned Government

Pleader for Respondent- Corporation.

4.1 Learned Advocate Mr. Patel by referring to chronology of facts submitted that as referred herein above many petitions have been filed by

Developer seeking No Objection Certificate for having construction permission with 22.80 meters height, from National Monument Authority. The last

order of rejection dated 23.01.2023 is under challenge in Special Civil Application No. 7035 of 2023, where notice has been issued. In the order dated

23.01.2023, the NOC by National Monument Authority for construction of 18 meters was granted to the Developer conditionally.

4.2 Further, regularization of unauthorized construction is permitted under the GRUDA Act, and therefore, Developer had preferred an application

dated 11.05.2024, which has been rejected under order dated 28.10.2024. Notwithstanding the same, the Petitioners, who are owners / occupiers have

also made similar applications seeking regularization of the construction, which are pending and annexed as Annexure "W (Colly) with the petition.

Despite that, the activity of demolition has been carried out which is beyond the provisions of law and also in breach of principles of natural justice.

4.3 Referring to Section 5 of GRUDA Act, Learned Advocate for the Petitioners submitted that as provided under the said provision, till the

application seeking regularization is decided, the requirement of owner or occupier to remove or pull down or alter the unauthorized construction/

development, if any, is deemed to be suspended and therefore the action of the Respondent " Corporation being illegal, the same deserves to be

quashed and set aside.

4.4 Learned Advocate for the Petitioners submitted that Petitioners are the residents of subject premises. The demolition is started by the authorities

on 13.12.2024, without putting the Petitioners to prior notice. The action of Corporation is contrary to the directions issued by the decision of

Hon^{ble} Supreme Court in "WP (Civil) No. 295 of 2022, In Re: Directions in the matter of demolition of structures" and therefore the action

deserves to be stayed. As held by the Honâ€™ble Supreme Court, before carrying out any demolition, the Respondent- Corporation is required to follow the procedure as enumerated in Paragraph No. 90 and 91. Considering that the same has not been followed, urgent orders staying the demolition activity may be passed.

4.5 Learned Advocate for the Petitioners has also contended that in the present case, construction is completed way back in September 2018 after obtaining all necessary permissions. However, merely on the ground that there is a fake NOC produced, the Development Permission is suspended and notices under Section 260(1) and Section 260(2) of GPMC Act have been issued, which is an illegal action on part of the Respondent- Corporation.

5. On the other hand, strongly opposing the petition Learned Government Pleader Mr. G.H. Virk made the following submissions:

5.1 At the outset, the prayers prayed in the present petition are identical to the prayers in Special Civil Application No. 16579 of 2018 and Civil Application No. 1 of 2024, filed by Mr. Moinuddin S. Shaikh. In civil application, prayer seeking stay against demolition is made. Pending this civil application, an application under GRUDA Act dated 11.05.2024 is also filed by the Developer. Thus, instead of filing this urgent petition, the Petitioners ought to have pressed for the pending petition with its Civil Application and present petition is therefore not maintainable on the ground of principles res-judicata.

5.2 Mr. Virk, Learned Government Pleader submitted that against the order dated 08.03.2019 passed in Special Civil Application No. 16579 of 2018, not continuing stay against demolition and not granting permission to use the subject premises in Special Civil Application No. 16579 of 2018, the Petitioner therein had preferred Letters Patent Appeal. The said Letters Patent Appeal was rejected by an order dated 04.04.2019. The said facts have been suppressed and therefore also, this petition deserves to be rejected on the ground of suppression of material facts.

5.3 Mr. Virk, Learned Government Pleader further contended that the submissions made in the detailed reply filed in Civil Application No. 2 of 2024 in

Special Civil Application No. 16579 of 2018 may be considered. As stated in reply to the said Civil Application in Special Civil Application No. 16579

of 2018, the Developer preferred an application seeking development permission for construction of building at the subject premises for Celler +

Ground Floor + 4 Floors from the Corporation. The said permission was sought on the basis of No Objection Certificate issued by National Monument

Authority dated 25.04.2012. Accordingly, Rajachitti was granted to the Developer for construction of Cellar + Ground + 4 Floors on 05.10.2016. The

Developer thereafter, made second application seeking construction for additional two floors. In response thereto, a letter dated 15.02.2017 was issued

giving the permission. However, the permission/ Rajachitthi dated 15.02.2017 was issued on the basis of a forged No Objection Certificate obtained by

the Developer from the National Monument Authority. After grant of permission/ Rajachitthi dated 15.02.2017, a communication dated 23.07.2018

was received from the National Monument Authority to Respondent " Corporation informing that the commencement letter dated 15.02.2017 was

obtained on the basis of forged No Objection Certificate and therefore no further permission/development should be permitted as the matter requires

further verification.

5.4 Mr. Virk, Learned Government Pleader submitted that taking note of the Developer's conduct, Respondent " Corporation issued notice

dated 16.10.2018 under Section 260(1) of the GPMC Act. In the notice dated 16.10.2018, the Noticees were given opportunity to show cause as to

why the additional two floors should not be demolished. By notice dated 16.10.2018, time of 3 days was given to submit response, however the

Noticees did not respond to notice dated 16.10.2018 issued under Section 260(1) of the GPMC Act. The Respondent " Corporation, therefore

sealed the premises on 19.10.2018. Against the order dated 16.10.2018 under Section 260(1) of the GPMC Act, Mr. Moinuddin S. Shaikh preferred

Special Civil Application No. 16579 of 2018 which is pending.

5.5 The Respondent " Corporation thereafter issued one more notice dated 23.10.2018 under Section 260 (2) of the GPMC Act once again directing

the Noticees to remove the unauthorized construction failing which appropriate action was indicated.

5.6 Meanwhile, though the premises were sealed vide order dated 19.10.2018, the seal was broken and therefore Respondent " Corporation once again sealed the premises by order dated 17.10.2023. The seal dated 17.10.2023 was also illegally broken and one more order was passed sealing the premises on 01.05.2024. Even the sealing order dated 01.05.2024 was breached and therefore the Respondent " Corporation once again sealed the premises vide order dated 15.06.2024. Thus, the premises were sealed vide orders dated 19.10.2018, 17.10.2023, 01.05.2024 and 15.06.2024.

5.7 Most importantly, on 23.01.2023 a letter was addressed by the National Monument Authority to the Developer informing that the conditional order of the authority is required to be adhered. As per the said letter, undertaking is directed to be filed to remove unauthorized construction. Despite that no such undertaking is filed.

5.8 In the meantime, the Developer made application dated 11.05.2024 under provisions of GRUDA Act seeking regularization of unauthorized construction. Since, no documents were provided along with application, the application of the Developer was rejected for want of necessary documents and therefore, the pendency of application under GRUDA Act is misconceived as the said application was already dismissed and rejected on 28.10.2024.

5.9 Mr. Virk has further submitted that owing to rejection of application filed by the Developer under order dated 28.10.2024, the present Petitioners have now filed regularization applications (Annexure-W Colly), which may not be taken into consideration since filing of the same is an after-thought and a clever tactic of the Petitioners to circumvent the demolition process. Further, there is no provision for filing such successive applications, once one application is rejected.

5.10 Further, by placing reliance on the provisions of GRUDA Act, particularly Section 8, Learned Government Pleader submitted that regularization can only be permitted if the same is permissible under the GRUDA Act. When the construction is contrary to the said Act, filing of subsequent applications (Annexure-W Colly) are of no consequence, and the protection available under Section 5 of the said Act cannot be extended to the present Petitioners.

5.11 Lastly, Learned Government Pleader relied upon provisions of Section 8(2)(f) of GRUDA Act to submit that unauthorized construction shall not be regularized if the same is treated as unauthorized by the State Government. In the present factual scenario, considering that the NOC obtained by the Developer is found to be forged/ fake, the present Petitioners cannot take immunity under Section 5 of the GRUDA Act. He therefore prayed that the prayers as prayed for by the Petitioners may not be considered and the petition be rejected.

6. Considered the submissions and perused the relevant record.

6.1 Short of unnecessary details, the entire factual matrix as mentioned above, would demonstrate that various proceedings and orders have been passed on petitions filed by the Developer and the Petitioners/occupants have approached this Court for the very first time. At this juncture, it is relevant to note that though reference in the memo of petition is made to petitions/proceedings having been initiated by the "Developer", upon seeking clarification from the Learned Advocate for the Petitioners, no clarification is forthcoming. I say so because the Learned Advocate is not in a position to justify as to how the Petitioner in previous petitions is "Moinuddin S. Shaikh", whereas the Developer in whose name the permissions have been sought / given is Moin Infrastructure LLP. All that the Learned Advocate has stated is that Moinuddin S. Shaikh has filed the previous petitions in his individual capacity as an owner and occupier.

6.2 Notwithstanding the aforesaid observation, since the previous petitions have been entertained by this Court and the Respondent-Corporation has also not taken any specific objection in the pleadings filed in earlier petitions with regard to discrepancy in the Petitioner's title, I refrain from delving further on this issue, also because I am currently dealing only with the captioned petition.

6.3 It is discerned from the record and also not in dispute that two applications filed by the Developer seeking regularization of the unauthorized construction under GRUDA Act were also rejected by the Respondent Corporation, with the last rejection order being as late as 28.10.2024.

6.4 However, this Court is conscious of the fact that any observations/findings qua the issue of alleged fabricated NOC or rejection order dated

28.10.2024 would have a bearing on the petitions filed by the Developer which are pending consideration before this Court, inter alia being Special Civil Application No. 16579 of 2018 and Special Civil Application No. 7035 of 2023. Hence, this Court deems it appropriate to refrain from making any observations on the merits of the actions/notices which are subject matter of the abovementioned proceedings, which are pending before this Court.

6.5 Apart from placing reliance on the orders passed in petitions filed by the Developer, which are not being considered by this Court for the reasons mentioned above, it was strenuously argued by Learned Advocate for the Petitioners that the main prayer prayed for in the captioned petition is to declare that in view of Section 5 of GRUDA Act, when application for regularization is made under Section 5, the notice for demolition issued by the Respondent- Corporation deserves to be suspended. In this regard, it may be pertinent to note Section 8 of the said Act.

6.6 Section 8 of GRUDA Act provides for circumstances in which unauthorised development shall not be regularized. Section 8(2) of the Act provides for the cases in which the Designated Authority shall not regularize development in respect of the following matter namely:

â€œ8.

(2) The Designated Authority shall not regularise unauthorised development in respect of the following matters, namely: - where the

permissible FSI (Floor Space Index) in a zone is less than 1.0;

(b) where FSI consumed in other than residential use, is more than fifty per cent. of the maximum permissible FSI as per CGDCR;

(c) where projections are beyond the plot boundary;

(d) where the change of use which in the opinion of the Designated Authority may cause danger to health or lead to health and safety hazard;

(e) where the unauthorised development falls under the alignment of means of water supply, drainage, sewerage, supply of electricity or gas

or of any other public utility service; and

(f) Such unauthorised development which the State Government may, prescribe.â€

6.7 In addition, proviso to Section 5 of GRUDA Act reads as under:

“Provided that such provision shall not be applicable in case of development carried on land in respect of matters provided in sub-section (1), (2) and (3) of section 8.”

6.8 In the present case, it is an admitted position that applications seeking regularization filed by the Developer have already been rejected twice, the second one being on 28.10.2024. Therefore, the submission of the Petitioners that merely because the applications filed by them under GRUDA Act are pending (Annexure-W Colly), protection under Section 5 of the Act deserves to be extended, does not merit acceptance in the opinion of this Court. This Court is of the opinion that the Petitioners, who on one hand heavily rely on the proceedings initiated by the Developer, cannot now take the umbrage under identical fresh applications moved by them seeking regularization under Section 5 of the GRUDA Act, specifically when no such provision is specified in the Act permitting filing of same-self applications for the subject property. This Court cannot lose sight of the fact that once the Developer’s applications have been rejected, similar applications at the hands of the Petitioners cannot provide any additional benefit to the Petitioners.

6.9 The Petitioners have also relied upon the directions issued by the Hon’ble Supreme Court on the mechanism to be followed by the authorities for carrying out demolition activities as enunciated in “WP (Civil) No. 295 of 2022, In Re: Directions in the matter of demolition of structures”.

The directions passed by the Hon’ble Apex Court in exercise of its powers under Article 142 of the Constitution of India are as under:

“90. In order to allay the fears in the minds of the citizens with regard to arbitrary exercise of power by the officers/officials of the State, we find it necessary to issue certain directions in exercise of our power under Article 142 of the Constitution. We are also of the view that even after orders of demolition are passed, the affected party needs to be given some time so as to challenge the order of demolition before an appropriate forum. We are further of the view that even in cases of persons who do not wish to contest the demolition order, sufficient

time needs to be given to them to vacate and arrange their affairs. It is not a happy sight to see women, children and aged persons dragged to the streets overnight. Heavens would not fall on the authorities if they hold their hands for some period.

91. At the outset, we clarify that these directions will not be applicable if there is an unauthorized structure in any public place such as road, street, footpath, abutting railway line or any river body or water bodies and also to cases where there is an order for demolition made by a Court of law.

A. NOTICE

i. No demolition should be carried out without a prior show cause notice returnable either in accordance with the time provided by the local

municipal laws or within 15 days[™] time from the date of service of such

ii. The notice shall be served upon the owner/occupier by a registered post A.D. Additionally, the notice shall also be affixed conspicuously on the outer portion of the structure in question.

iii. The time of 15 days, stated herein above, shall start from the date of receipt of the said notice.

iv. To prevent any allegation of backdating, we direct that as soon as the show cause notice is duly served, intimation thereof shall be sent

to the office of Collector/District Magistrate of the district digitally by email and an auto generated reply acknowledging receipt of the mail

should also be issued from the office of the Collector/District Magistrate. The Collector/DM shall designate a nodal officer and also assign

an email address and communicate the same to all the municipal and other authorities in charge of building regulations and demolition within one month from today.

v. The notice shall contain the details regarding:

a. the nature of the unauthorized construction.

b. the details of the specific violation and the grounds of demolition.

c. a list of documents that the noticee is required to furnish along with his reply.

d. The notice should also specify the date on which the personal hearing is fixed and the designated authority before whom the hearing will

take place;

vi. Every municipal/local authority shall assign a designated digital portal, within 3 months from today wherein details regarding

service/pasting of the notice, the reply, the show cause notice and the order passed thereon would be available.

B. PERSONAL HEARING

i. The designated authority shall give an opportunity of personal hearing to the person concerned.

ii. The minutes of such a hearing shall also be recorded.

C. FINAL ORDER

i. Upon hearing, the designated authority shall pass a final order.

ii. The final order shall contain:

a. the contentions of the noticee, and if the designated authority disagrees with the same, the reasons thereof;

b. as to whether the unauthorized construction is compoundable, if it is not so, the reasons therefor; c. if the designated authority finds that

only part of the construction is unauthorized/non-compoundable, then the details thereof.

d. as to why the extreme step of demolition is the only option available and other options like compounding and demolishing only part of the

property are not available.

D. AN OPPORTUNITY OF APPELLATE AND JUDICIAL SCRUTINY OF THE FINAL ORDER.

i. We further direct that if the statute provides for an appellate opportunity and time for filing the same, or even if it does not so, the order

will not be implemented for a period of 15 days from the date of receipt thereof. The order shall also be displayed on the digital portal as

stated above.

ii. An opportunity should be given to the owner/occupier to remove the unauthorized construction or demolish the same within a period of

15 days. Only after the period of 15 days from the date of receipt of the notice has expired and the owner/occupier has not removed/demolished the unauthorized construction, and if the same is not stayed by any appellate authority or a court, the concerned authority shall take steps to demolish the same. It is only such construction which is found to be unauthorized and not compoundable shall be demolished.

iii. Before demolition, a detailed inspection report shall be prepared by the concerned authority signed by two Panchas.

E. PROCEEDINGS OF DEMOLITION

i. The proceedings of demolition shall be video-graphed, and the concerned authority shall prepare a demolition report giving the list of police officials and civil personnel that participated in the demolition process. Video recording to be duly preserved.

ii. The said demolition report should be forwarded to the Municipal Commissioner by email and shall also be displayed on the digital portal.â€

7. It is contended by Mr. Virk that there is due compliance of the aforementioned directions in as much as Paragraph 90 of the said judgment is duly complied with. He says so by stating that the phrases â€œparty needs to be given some timeâ€ and â€œsufficient timeâ€ used in the said Paragraph is followed since the demolition notice/ order under Section 260(2) of GPMC Act is dated 23.10.2018 and hence, approximately 6 years have been provided to the Petitioners to vacate the premises and/or initiate appropriate proceedings, if available. He has further made a statement at the Bar that such notice was served to the Petitioners/ Occupants/ Developer. In response thereto, though Learned Advocate for the Petitioners has disputed the proposition of sufficiency of time of service of notice, the contents of the petition reflect otherwise. Under Paragraph 36 of the petition, Petitioners have themselves stated that notices under Section 260(1) and Section 260(2) were issued by Respondent-Corporation. Moreover, prayer (c) of the petition refers to the notice/ order dated 23.10.2018 as the demolition notice. In view thereof, it is clear that sufficient opportunity has been provided to the Petitioners.

8. In light of the above, this Court deems it appropriate to dismiss the captioned petition being devoid of merits. Interim relief, if any, shall stand vacated forthwith. Rule stands discharged.

9. After the order is passed, learned advocate Mr. Patel for the petitioners requested for extension of interim relief granted earlier vide order dated

13.12.2024. In view of the reasoned order dated 18.12.2024, the same is rejected.