



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CIVIL APPLICATION NO. 9027 of 2024**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MRS. JUSTICE MAUNA M. BHATT**

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Approved for Reporting	Yes	No
	Yes	

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**YUSUF MEHMUDKHAN PATHAN**

Versus

**STATE OF GUJARAT & ANR.**

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Appearance:

MR YATIN OZA, SENIOR ADVOCATE for

MR SHYAM M SHAH(11348) for the Petitioner(s) No. 1

MR.JAY S SHAH(7244) for the Petitioner(s) No. 1

MS SUMAN MOTLA AGP for the Respondent(s) No. 1

MAULIK NANAVATI for NANAVATI & CO.(7105) for the Respondent(s)  
No. 2

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**CORAM:HONOURABLE MRS. JUSTICE MAUNA M. BHATT**

**Date : 21/08/2025**

**ORAL JUDGMENT**

1. Rule returnable forthwith. Learned AGP Mr. waives service of notice on behalf of respondent No.1 and learned advocate Mr. Maulik Nanavati waives service of rule on behalf of respondent No.2.



2. This petition is filed seeking to quash and set aside the notice / order dated 06.06.2024 (Annexure E/1 page No.20) whereby, respondent No.2 – Vadodara Municipal Corporation (VMC)’s proposal to allot the plot in question in favour of the petitioner, on lease, for a period of 99 years, without holding any public auction has been rejected. Under order dated 06.06.2024, directions were also issued to VMC to do the needful to remove encroachment from plot in question on urgent basis. Petitioner also prays to quash and set aside the order dated 09.06.2014 by the State Government at Annexure R/11 page 61. Vide communication dated 09.06.2014, the VMC was informed that its proposal to give plot in question, without public auction, to the petitioner on lease for 99 years has been rejected.

3. Heard learned senior advocate Mr. Yatin Oza assisted by learned advocate Mr. S.M.Shah and Mr. Jay S Shah for the petitioner. Learned AGP Ms. Suman Motla for respondent No.1 and learned advocate Mr. Maulik Nanavati for respondent No.2.

4. Learned senior advocate Mr. Oza submitted that the order dated 06.06.2024 and communication dated 09.06.2014 are erroneous, unjust and contrary to the provisions of Gujarat



Provincial Municipal Corporation Act, 1949 (“the GPMC Act”). Referring to the facts, learned senior advocate submitted that the petitioner herein is a Member of Parliament representing Baharampura Constituency of Lok Sabha. The petitioner also has an outstanding career in international and First-Class Cricket having participated in the world cup and represented the country. The plot in question herein is a plot reserved for residential purpose situated at Mouje Tabhdakha T.P.Scheme No.22 F.P.No.90 Nr. Aangan Society, Opposite Shubham Party Plot admeasuring 978 Sq.mtrs.(hereinafter referred to as “plot in question”). Learned senior advocate submitted that on 03.03.2012, the petitioner made an application/ representation to respondent No.2 for allotment of the plot in question. The purpose of making such application for allotment of plot in question was on account of its location because the plot in question, the petitioner is seeking for, is adjacent to his bungalow. Therefore, keeping in mind the security of himself and his family members, a representation dated 03.03.2012 was made and this is evident from the contents of the application. The plot consists of 978 sq.mtrs of land. It was submitted that pursuant to the representation/application of the petitioner dated 03.03.2012, a valuation was done and accordingly, a proposal was sent to General Body Meeting of Vadodara Municipal Corporation for allotment of the plot in



question to the petitioner. A Standing Committee's resolution dated 30.03.2012 referring to the proposal for allotment of the plot in question to the petitioner or otherwise is at Page No.32-A. Thereafter, the General Body of VMC in its meeting dated 08.06.2012, sent the said proposal to the Commissioner of VMC for its decision and necessary action. As a result, *vide* communication at page No.32-B in continuation of the earlier orders/resolutions, a decision was taken by the Commissioner of VMC to send the said proposal for approval of the State Government and communication in this regard was forwarded to the petitioner on 25.06.2012 (Annexure R/5 page 53). Learned Senior Advocate submitted that from the above communication, it is evident that the Commissioner took a decision to send the proposal to the State Government for its sanction, despite that the State Government without according sanction communicated on 18.06.2014 (page 32/C) to Vadodara Municipal Corporation about rejection of its proposal for allotment of plot of 978 sq.mtrs to the petitioner, leading the petitioner to file this petition.

4.1. Learned senior advocate submitted that both the decision of the State Government as also the proposal sent by the Commissioner VMC to the State Government for its sanction *vide* communication dated 25.06.2012 are erroneous because



Section 79 of GPMC Act does not require seeking of any permission/sanction from the State Government. Learned Senior advocate submitted that since the initiation of action to send the proposal to the State Government being erroneous and contrary to the provisions of the GPMC Act; the consequential orders dated 09.06.2014 of the State Government rejecting the proposal of the Corporation (VMC) and order dated 06.06.2024 directing the petitioner to vacate the premises being illegal, deserves to be quashed and set aside. Learned senior advocate submitted that both these communications dated 06.06.2024 (page 20) and 09.06.2014 are erroneous and illegal on the following grounds:

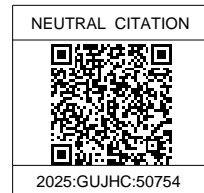
(i) The resolution dated 30.03.2012 by the Standing Committee of VMC was passed after deliberation and by majority. From the resolution dated 30.03.2012 of Standing Committee of Corporation (VMC), it is evident that the valuation proposed by the valuer was accepted and it was decided that the plot in question will be allotted to the petitioner for 99 years. After taking this positive decision, another order was passed on 08.06.2012 in the General Body Meeting of VMC to accept the proposal of the petitioner. The General Body Resolution dated 08.06.2012 (Annexure R/4 page 52) refers to its earlier resolution dated 30.03.2012.



Accordingly, once the resolution was passed in the General Body Meeting by VMC, it was a decision by majority. Thereafter, a communication dated 25.06.2012 in this regard was sent to the petitioner.

(ii) Referring to communication dated 25.06.2021, Learned senior advocate submitted that from the content it is evident that the valuation was referred and the period of lease was referred. It only further refers that once the sanction will be accorded by the State Government, the land shall be given to the petitioner. Therefore, once the decision has been taken by the Corporation (VMC) which is an independent body, no further action is required by sending the proposal to the State Government, as State Government is not empowered to grant any sanction.

(iii) On a query raised that why decision dated 25.06.2012 sending the proposal to the State Government was not challenged, learned senior advocate submitted that since a positive communication was received, the petitioner being not aggrieved, did not challenge the same. Moreover, when no sanction is required under Section 79 of GPMC Act, the action taken by VMC being contrary to the provisions of the Act, can be challenged at any stage. The language of Section 79 (c) of



GPMC Act is clear and unambiguous, and there is no prohibition to challenge the subsequent action when it is unlawful.

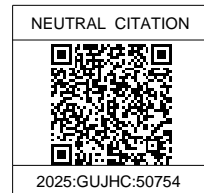
(iv) Learned senior advocate submitted that Section 79 refers to provisions of governing the disposal of municipal property, wherein clause (c) provides for sanction of the Corporation and the powers are assigned to lease, sale, let out on a higher or otherwise convey any property movable or immovable belonging to the Corporation. Thus, when the statute empowers the Commissioner of Corporation to dispose of the municipal property at his own discretion, no reference / sanction is required from the State Government and in this case, proposal being erroneously made to the State Government, the decision of the State Government being inconsequential, deserves to be quashed and set aside. Further, once the initiation of action will go, the consequential orders also deserve to be quashed and set aside.

(v). Emphasizing on language of Section 79(c), learned senior advocate submitted that the language of this Section is clear and unambiguous. It does not give any second meaning to the provision and, therefore, when the language of Section is clear and ambiguous, the literal meaning is required to be given to



the said provision. If the said provision is read, then it gives the absolute discretion to the Commissioner of the Corporation and which has been rightly exercised in this case and communicated to the petitioner vide communication dated 25.06.2012. Thereafter, the rejection of a proposal was made by an order dated 09.06.2014, however, the said communication was not made available to the petitioner. From the communication dated 09.06.2014, it is evident that the same is addressed to the Municipal Corporation by the State Government. Thereafter, one more communication was addressed to the petitioner dated 05.08.2014 at Annexure R-5 page 62, whereby the petitioner has been informed that his application and the proposal sent by the VMC has been rejected. Therefore, the statutory authority has acted in a manner deviating from the procedure. Learned senior advocate alleged that though the communication at Annexure R-12 page 62 dated 05.08.2014 was addressed to the petitioner, the same is not received and having received the communication dated 06.06.2024, immediately the petition was filed. Thus, the authority has not acted as per the procedure required to be followed and, therefore, also the petition deserves to be allowed by directing the Commissioner to consider the application of the petitioner afresh.





(vi). Further, most importantly, after 73<sup>rd</sup> and 74<sup>th</sup> Amendment in the Constitution, all Local Self-Government are treated as creation of a statute. Therefore, the respondents being the local Self-Government is a constitutional body not governed by the State Government. Respondent – Corporation being the constitutional entity in eye of law and the State Government having no control over it, bringing State into picture by sending them the proposal for its accord being contrary to the constitutional amendment deserves to be ignored and, therefore the last communication addressed to the petitioner dated 25.06.2012 being final, no further documents are required to be seen.

(vii). Learned senior advocate in support of his submission that no sanction from the State Government is required relied upon the Constitutional 74<sup>th</sup> amendment, and its intent and object. The purpose of this amendment is to have self-local government and if the proposal sent in this case is to be considered it would frustrate the purpose of the amendment and would run contrary to the object and intent of the 74<sup>th</sup> amendment.

(viii). Learned senior advocate in support of his submissions that under Section 79 of GPMC Act the Corporation (VMC)

being independent entity, the State Government is not required to be involved, relied upon decision of this Court in the case of (i) ***Himmatbhai Bhimjibhai Menia vs. State of Gujarat*** <sup>1</sup>. Reliance is also placed on the decision in the case of (ii) ***Noor Mohammed V. Khurram Pasha*** <sup>2</sup> with the submission that when language of Section 79 of GPMC is clear, the authority is expected to do the thing in a manner in which it is required and not in a manner in which he wanted to. (iii) Reliance is also placed on the decision of Hon'ble Supreme Court in the case of ***Raghunath Rai Bareja and Anr. vs. Punjab National Bank and Ors.*** <sup>3</sup> to submit the literal rule of interpretation really means that there should be no interpretation. In other words, we should read the statute as it is, without distorting or twisting its language. Therefore, also this petition deserves to be allowed. Learned senior advocate has referred to paragraph Nos.42 and 43 wherein it is held as under:

“42. As observed by Lord Cranworth in *Gundry v. Pinniger* “*To adhere as closely as possible to the literal meaning of the words used*”, is a cardinal rule from which if we depart we launch into a sea of difficulties which it is not easy to fathom.”

43. In other words, once we depart from the literal

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1 2013 (0) ALJEL-HC 237730

2 2022 (9) SCC 23

3 (2007) 2 SCC 230

rule, then any number of interpretations can be put to a statutory provision, each judge having a free play to put his own interpretation as he likes. This would be destructive of judicial discipline, and also the basic principle in a democracy that it is not for the Judge to legislate as that is the task of the elected representatives of the people. Even if the literal interpretation results in hardship or inconvenience, it has to be followed (see G.P.Singh's Principles of Statutory Interpretations, 9<sup>th</sup> Edn., pp.45-49). Hence departure from the literal rule should only be done in very rare cases, and ordinarily there should be judicial restraint in this connection.”

(ix). On the aspect of legal point can be raised at any stage and there is no estoppel to the same, Learned Senior advocate relied upon one more decision in the case of ***Rasikchandra Devshankar Acharya vs. State of Gujarat***<sup>4</sup> to submit that the local government being the Self-Government, the intervention at any stage by the State Government has been deprecated in this decision. Learned advocate has relied upon paragraph Nos.11 and 14 which reads as under:

“11. Before referring to the impugned Act, it would be appropriate to refer to the provisions of Part IX and Part IX-A of the Constitution, which were inserted as a result of Seventy-third and Seventy-Fourth Amendments of the Constitution, for the reason that the main thrust of the arguments of the Counsels on behalf of the petitioners has been that

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<sup>4</sup> 1994 (0) ALJEL-HC 210437



the impugned Act is in violation of the various Arts in the said two parts.

12.xxxx

13.xxxx

14. In the Statement of Objects and Reasons in the Constitutional Amendment Bill relating to urban local bodies it was, inter alia, stated that:-

[“In many States local bodies have become weak and ineffective on account of variety of persons, including the failure to hold regular elections, prolonged supersession and inadequate devolution of powers and functions. As a result, Urban Local Bodies are not able to perform effectively as vibrant democratic units of self-government.

[2. Having regard to these inadequacies, it is considered necessary that provisions relating to Urban Local Bodies are incorporated in the Constitution particularly forwarded

[(i) putting on a firmer footing the relationship between the State Government and the Urban Local Bodies with respect to

[(a) the functions and taxation powers; and ]

[(b) arrangements for revenue sharing;]

[(ii) ensuring regular conduct of elections;]

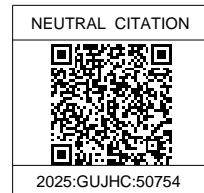
[(iii) ensuring timely elections in the case of supersession; and]

[(iv) providing adequate representation for the weaker section like Schedule Castes, Scheduled

Tribes and women.”]

(x). Reliance was placed on the decision by the Constitutional Bench of the Hon’ble Supreme Court in case of Kishansing Tomar .Vs. Municipal Corporation of the City of Ahmedabad & Ors., in Civil Application No.5756 of 2005 to submit that the aim and object of the Self-Government is required to be reserved and they are not permitted to become insufficient by intervention of State Government. Learned senior advocate submitted that though the decision refers to the election to be held however, the principle laid down is required to be considered.

(xi). On the aspect of possession of plot in question with the petitioner, learned senior advocate submitted that it is true that no order was passed and communicated to the petitioner, however, once the decision is taken by the Corporation, which is an independent Self-Government merely not passing any administrative order would not make the resolution non-effective. If possession held by the petitioner is considered on the aspect of reasonableness and probability, then it may be considered that for 12 years VMC did not do anything, not a single letter was addressed and straightway the order in the year 2024 was passed. Learned senior advocate submitted that the action is pursuant to the petitioner being elected as a



member of West Bengal Constituency and, therefore, the petition deserves to be allowed.

5. Lastly, learned senior advocate submitted that petitioner being a conscious citizen of the country and having represented the country internationally in the field of Cricket, he is ready to pay the current market value of the plot in question and, therefore, his application may be considered afresh on payment of consideration on a fair market value as on date. Therefore, this petition may be considered by directing VMC to consider application of the petitioner afresh on payment of fair market value as on today.

6. Strenuously opposing the petition, learned advocate Mr.Maulik Nanavati for the respondent – Corporation submitted the following:-

(i) No person has a fundamental right to ask for the Government Land or a Corporation Land. The only right is to make a request and no right that the request should be considered positively.

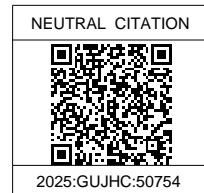
(ii) The special right on a request is also given to the authority of VMC however, the petitioner does not fall in the



category of the class of people who can be considered to make a special right.

(iii) In this context, if the facts are revisited then the petitioner asked for the land for residence on a payment of market value. His application is at page 49 dated 03.03.2012. From the application, it is evident that the petitioner is asking for the adjacent plot in question having 978 sq.mtrs. for the purpose of his residence. The reason given is of security and he has shown his willingness to follow the terms and conditions and the rules for the allotment of the said plot in question. Accordingly, an exercise was undertaken to carry out valuation and the valuation report is at Annexure R-2 page 15.

(iv) After having the valuation done, the matter was placed before the standing committee of VMC and in the standing committee, resolution dated 30.03.2012 (Annexure R-3 page 51) was passed wherein it is stated that since the land in question was proposed to be given to the petitioner without auction, the sanction of the State Government was necessary and accordingly, a decision was taken to place this agenda in the General Body Meeting. Accordingly, in the General Body Meeting dated 08.06.2012 (Annexure R/4 page 52), the matter was referred to the Commissioner and in turn Commissioner



took a conscious decision to send the proposal to the State Government on the ground that allotment of plot in question is to be done to the petitioner without public auction. From the tenure of communication at page 55 dated 05.01.2013, it is evident that the said communication refers to send willingness to accept the proposal by payment as per valuation. The communication further states that once sanction is received by the Corporation, same will be sent to the petitioner. Thus, petitioner was aware from the year 2012 onwards that his proposal was sent for sanction of the State Government. Because the proposal was sent to the State Government to accord its sanction or otherwise, on the ground of auction procedure not to be followed, reference of Section 79 of GPMC Act is of no consequence.

7. Learned advocate Mr. Nanavati read the communications dated 25.06.2012, 30.11.2012 and 07.01.2013 (page 53, 54 and 55) that petitioner was made aware that on account of not putting the plot in question for auction, the Corporation decided to get the sanction of the State Government. This aspect is more evident from the communication received from the petitioner dated 30.05.2013 at Annexure R/7 page 56. If the communication of the petitioner is read, it is evident that the petitioner referred that he is willing to pay the amount as





per the valuation done and for allotment of plot in question without auction, he had requested for further proceedings. Therefore, the reference made of Section 79 does not have any bearing and the same may be ignored.

8. Thus, though the petitioner was aware that the property was only proposed for allotment and for which sanction was sought from the State Government, the petitioner encroached the plot in question without any order passed. Learned advocate heavily relied upon the communication from the petitioner at page 56 to submit that the time freezes there and therefore once the time has frozen under communication dated 30.05.2013, the subsequent action of having the possession without passing any orders deserves to be considered adverse. Thus, when the petitioner has entered possession of plot in question without any order, it amounts to encroachment.

9. Even if the contention of the petitioner is accepted, that oral possession was given that also will not give any right over the plot in question because respondent being a statutory authority has no power to give possession by oral arrangement and, therefore, this is nothing but an encroachment and the encroachment is required to be removed.



10. Moreover, in this case, there is no rebuttal that the petitioner is not in possession of the subject land and long possession will not create any right over the property. Further, *bonafides* of the petitioner are to be tested because till date not a single rupee has been paid to the Corporation towards the plot in question. The submission of the petitioner that he is willing to pay is not acceptable since in absence of any order granting the land in favour of the petitioner, the land in question being of the corporation, the same is to be sold as per the procedure contemplated under the provisions of the Act and, therefore, auction now will be held and the petitioner may participate in the auction, even if he wishes to. At the most, the petitioner may be given preference if his offer matches with the auction bid.

11. Learned advocate Mr. Nanavati further submitted that the area of plot in question is of 978 sq.mtrs which is not a small piece of land. Moreover, construction of a boundary wall by the petitioner is an illegal action and he being the literate person representing the Country at the international level is expected to be a law-abiding citizen of the Country. The petitioner being in the category of an international celebrity and many people looking upon him, he is expected to be more

conscious towards laws of this Land. Any illegality committed by him may not be tolerated on the ground of security.

12. Moreover, the arguments canvassed of security are without basis because till date not a single application is preferred before the State Government for providing security to him. Moreover, he stays in a State having complete law and order situation and, therefore also his allegations are not correct. Moreover, it cannot be ignored that petitioner is an elected member of the public and representing the Country in the parliament. If he is permitted to violate the law, that will give a very wrong impression of this Country to other countries as well as citizens.

13. In support of his submissions, learned advocate relied upon following decisions:

(i) ***Suzuki Parasrampuriah Suitings Pvt. ... vs The Official Liquidator Of Mahendra***<sup>5</sup> to submit the litigant cannot take different stand at a different stage.

“12. A litigant can take different stands at different times but cannot take contradictory stands in the same case. A party cannot be permitted to approbate and reprobate on

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<sup>5</sup> 2018 (10) SCC 707



the same facts and take inconsistent shifting stands. The untenability of an inconsistent stand in the same case was considered in Amar Singh vs. Union of India, (2011) 7 SCC 69, observing as follows:

“50. This Court wants to make it clear that an action at law is not a game of chess. A litigant who comes to Court and invokes its writ jurisdiction must come with clean hands. He cannot prevaricate and take inconsistent positions.”

(ii) ***Union Of India vs N Murugesan***<sup>6</sup> the litigant cannot be permitted to approbate and reprobate which the petitioner is doing.

“APPROBATE AND REPROBATE:

26. These phrases are borrowed from the Scott's law. They would only mean that no party can be allowed to accept and reject the same thing, and thus one cannot blow hot and cold. The principle behind the doctrine of election is inbuilt in the concept of approbate and reprobate. Once again, it is a principle of equity coming under the contours of common law. Therefore, he who knows that if he objects to an instrument, he will not get the benefit he wants cannot be allowed to do so while enjoying the fruits. One cannot take advantage of one part while rejecting the rest. A person cannot be allowed to have the benefit of an instrument while questioning the same. Such a party either has to affirm or disaffirm the transaction. This principle has to be applied with more vigour as a common law principle, if such a party actually enjoys the

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<sup>6</sup> 2022 (2) SCC 25

one part fully and on near completion of the said enjoyment, thereafter questions the other part. An element of fair play is inbuilt in this principle. It is also a species of estoppel dealing with the conduct of a party. We have already dealt with the provisions of the [Contract Act](#) concerning the conduct of a party, and his presumption of knowledge while confirming an offer through his acceptance unconditionally.

14. Mr. Nanavati also relied on Criminal Appeal No.3528 of 2025 to submit that if the petitioner is a celebrity, then he is expected to be even more law-abiding citizen. In this case, the petitioner was aware of his action of having encroached the property and there being no order in his favour, despite that the petitioner acted by taking law in his hand and, therefore, the petition may be disposed of with costs.

15. Considered the submissions, documents on record and decisions relied upon. Essentially, the challenge in this petition is against the order dated 06.06.2024 passed by Municipal Commissioner of VMC, wherein, the petitioner has been informed to remove encroachment from the plot in question. The order dated 06.06.2024 also refers to rejection of petitioner's application by the State Government under order dated 09.06.2014 and accordingly, the order dated 09.06.2014 is also challenged in this petition. If the order dated



09.06.2014 is perused, it is evident that by the said order, the State Government has communicated to the petitioner that his request for allotment of land situated in T.P. Scheme No.22, Final Plot No.90 admeasuring 978 sq.mtrs, having ownership of Corporation, without putting the same to auction has been rejected.

16. In the above context, if the documents annexed with the petition are perused, it is evident that originally the petitioner made an application requesting allotment of land of 978 sq.mtrs situated at T.P.No.22 Final Plot No.90. Upon an application, a decision was taken to ascertain market value and thereafter a proposal to allot the same to the petitioner without following auction procedure was considered by respondent Corporation. In response to the valuation sought, the price of plot in question was ascertained at Rs. 57,270/- per sq.mtrs. Accordingly, a resolution was passed by VMC in the Standing Committee on 30.03.2012 and the matter was referred to the General Body of VMC. In the General Body Meeting held on 08.06.2012, a decision was taken to refer the matter to Commissioner of Municipal Corporation because such powers are assigned to Municipal Commissioner of the Municipal Corporation. Pursuant to which the Municipal Commissioner of VMC, referred the matter to State Government



for its opinion. A communication dated 25.06.2012 was forwarded to the petitioner bringing to his notice these facts. If a close reading of the said communication dated 25.06.2012 is done, it refers to the earlier resolutions of the Corporation dated 30.03.2012 and 08.06.2012 for the plot and its valuation per sq.mtrs. The communication further states that the allotment is proposed to be given without putting the plot in question to auction, hence a sanction is sought from the State Government and if the sanction is accorded, further procedure will be initiated. This communication dated 25.06.2012, was in response to the petitioner's letter dated 03.03.2012. Thereafter, efforts were made to get response from the State authorities on the proposal sent by Municipal Commissioner. After communication dated 25.06.2012, one more letter dated 30.05.2013 was addressed by the petitioner stating that he is awaiting response from the Corporation and ready to pay the price fixed as per the valuation done and once a response is received, he shall do the needful to get the possession of Plot No.90. After communication dated 30.05.2013 of the petitioner, no order of respondent – Corporation for allotting plot in question was passed.

17. On the contrary, thereafter, a communication dated 09.06.2014 was received by the Municipal Commissioner of



VMC, from the State Government rejecting the application of the petitioner. Therefore, the petitioner had no right to occupy the plot in question which is why the submission of the Corporation that the petitioner has encroached the land in question, in the opinion of this Court is correct. This Court says so also because without paying consideration or without any order of allotment in favour of petitioner, it would be improper on part of the petitioner to occupy the land in question and this action would amount to encroachment by creating a boundary wall. This aspect is more evident from the communication of the petitioner dated 30.05.2013 which refers to the communication of Corporation where he has been informed that the matter is sent to the State Government for its sanction. More so, under communication dated 30.05.2013, the petitioner himself has asked for payment and also sought further instructions for having possession. Therefore, unless and until the petitioner has been ordered to make payment or granted allotment, he cannot be stated to be the owner of plot in question and therefore, also the allegation of encroachment, in the opinion of this Court is correct. Further, there is no denial by the petitioner regarding his possession of the plot in question. For that matter, long possession or willingness to pay at this stage, will not give any right over the land in question to the petitioner. Thus, this illegality in the opinion of this



Court shall not be permitted to be perpetuated. Therefore, when the petitioner is found to be encroacher of the plot in question, strict action in accordance with law is expected from the respondent corporation. The submission at this stage that the petitioner may be treated as *bonafide* purchaser as he is ready to purchase the plot in question at the market rate applicable as on date is not acceptable because in the opinion of this Court it would amount to regularizing encroachment in a petition under Article 226 of the Constitution of India. Not a single communication the petitioner is able to place on record justifying his efforts to make payment. In other words, the petitioner simply enjoyed the plot in question without there being any right over it.

18. At this stage, this Court would like to consider the submission that petitioner since has represented the Country at international level and being an elected member of parliament owes certain added responsibilities and duties towards laws of this country. In this context, this Court would like to rely upon the decision of Hon'ble Supreme Court in Criminal Appeal No.3528 of 2025 wherein it is held that celebrities serve as social role models and their accountability is greater not lesser. The celebrities by virtue of their fame and public presence wield substantial influence on public behaviour and

social values granting leniency to such persons despite their non-abeyance of law gives wrong message to the society and undermines public confidence in the judicial system. Therefore, in the opinion of this Court the petitioner shall not be permitted to remain in the occupation of the plot in question which he has encroached.

19. As against this, if a decision relied upon by learned advocate for the petitioner is considered, then in the case of ***Himmatbhai Bhimjibhai Menia*** <sup>1</sup>, it is noticed that the same is in relation to the order under Section 79 of the GPMC Act wherein it is held that Section 79 has no application if the property is vested with the Corporation and State Government has no role to play once the property is vested with the Municipal Corporation. Similarly, principle is laid in the decision of this Court in the case of ***Rasikchandra Devshankar Acharya*** <sup>4</sup>, wherein it is held that after 34<sup>th</sup> Constitutional Amendment, the Municipal Corporation being the Self-Government, the State has no role to play in its decision. In this case, as considered earlier, proposal does not refer to Section 79 of GPMC Act and was sent on account of deviation to be made from the regular procedure of allotment of plot in question by way of auction and, therefore, in the opinion of this Court the submission canvassed on behalf of the



respondent that Section 79 has no role to play is accepted. Similar is the case with regard to the decision in the case of **Noor Mohammed** <sup>2</sup> wherein the issue was in relation to the procedure to be adopted under the provision of the Negotiable Instrument Act and the same in the opinion of this Court, would not be applicable in the facts of this case.

20. Similarly in the case of **Raghunath Rai Bareja and Anr.** <sup>3</sup> wherein the issue was in relation to interpretation of statute and, therefore, the submission canvassed that plain reading of Section 79 does not permit the Commissioner to make a reference to the State, in the opinion of this Court would not be applicable in the facts of this case because at the cost of repetition, in the opinion of this Court, the reference was made in relation to the procedure not to be followed for allotment of the land in question to the petitioner and not the other way. Therefore, the petition deserves to be dismissed and the same is hereby dismissed.

21. On the submission of imposing costs on the petitioner, as observed earlier the petitioner owes more responsibilities towards the Society, however, it is noticed that the State Government communicated about rejection of proposal of allotment of plot in question to the Commissioner of Vadodara



Municipal Corporation on 09.06.2014 and despite having knowledge of petitioner's possession over the plot in question, no action was initiated by the Corporation and therefore, the request of payment of cost is rejected.

22. In view of foregoing reasons, the present petition is dismissed. Rule is discharged. No costs.

**(MAUNA M. BHATT,J)**

NAIR SMITA V./15