IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 580 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 581 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 589 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 590 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 591 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 592 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 593 of 2026
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R/SPECIAL CIVIL APPLICATION NO. 594 of 2026
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R/SPECIAL CIVIL APPLICATION NO. 600 of 2026
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R/SPECIAL CIVIL APPLICATION NO. 603 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 604 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 606 of 2026
With
R/SPECIAL CIVIL APPLICATION NO. 608 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIRAL R. MEHTA

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Approved for Reporting	Yes	No
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KASHYAPBHAI RAMESHBHAI KOTECHA
Versus
THE STATE OF GUJARAT & ORS.

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Appearance:
MR SP MAJMUDAR WITH MR MEET D KAKADIA(11896) for the

Petitioner(s) No. 1
MR SAHIL TRIVEDI, AGP for the Respondent(s) No. 1,2
MR HS MUNSHAW(495) for the Respondent(s) No. 3,4,5
MR RC SEJPAL(2636) for the Respondent(s) No. 6
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CORAM:**HONOURABLE MR. JUSTICE NIRAL R. MEHTA**

Date : 16/03/2026

COMMON ORAL JUDGMENT

1. Since the captioned matters involve an identical set of facts and raise substantially similar questions of law, they were heard together and are being disposed of by this common judgment, treating Special Civil Application No.580 of 2026 as the lead matter.

2. By way of the present petition under Article 226 of the Constitution of India, the petitioner has approached this Court challenging the legality and validity of the orders dated 31st December, 2025 and 18th July, 2025, whereby the application preferred by the petitioner seeking regularisation of the subject construction under the Gujarat Regularization of Unauthorized Development Act, 2022 came to be rejected.

3. The brief facts giving rise to the present petition are stated hereunder:

3.1 The dispute in the present matter

pertains to the construction carried out on Plot No.233 admeasuring approximately 166.67 sq. yards situated in Sitaram Park Proposed Society, forming part of Final Plot No.72/1 of T.P. Scheme No.10, carved out from Survey No.50 paiki land admeasuring about 11 acres and 4 gunthas situated at Village Motamava, Taluka and District Rajkot.

3.2 The land bearing Survey No.50 paiki originally belonged to one Aniruddhsinh Chatursinh Jadeja, Bilharbaben Vibhajibhai Jadeja, Arvindsinh Vibhajibhai Jadeja and Kiritsinh Vibhajibhai Jadeja, whose names were reflected in the revenue record in the year 1999. Thereafter, the said land came to be sold by way of four separate registered sale deeds in favour of Mansukhbhai Chhaganbhai Patel, Bhavanbhai Ranchhodbhai Patel, Shivabhai Nathabhai Patel, Mansukhbhai Jivrajbhai Patel, Libabhai Raghavbhai Patel, Rameshbhai Parbatbhai Patel, Bhaskarbhai Devshankar Mehta and Mavjibhai Manjibhai Sakhala.

3.3 It appears that entries of the aforesaid sale deeds were not mutated in the revenue records. Around the said period in the year 1999, a proposed housing society came to be formed on the subject land and construction activities were undertaken without obtaining requisite statutory

permissions. According to the petitioner, the concept of proposed societies was prevalent at the relevant time and there existed more than sixty such proposed societies in the city of Rajkot. It is further the case of the petitioner that one Jayrajbhai K. Solanki developed and constructed the Sitaram Co-operative Housing Society (Proposed) on the subject land and a layout plan was also prepared in respect thereof.

3.4 It is alleged that the said Jayrajbhai K. Solanki, in collusion with the original landowners and the subsequent purchasers, proceeded to sell several plots in the said proposed society to various persons including the petitioner herein by issuing share certificates and possession receipts during the period between 1999 and 2002. Plot No.233 was originally allotted to one Rameshbhai Bhurabhai Faldu, whose rights in the said plot subsequently came to be transferred to the present petitioner by way of a transfer deed dated 17th October, 2019.

3.5 The petitioner has further contended that the said proposed society possessed a Permanent Account Number bearing No.ACAAS3857J and the existence of the society as well as the possession of the petitioner and other members

over their respective plots is evidenced by several documents including electricity bills, photographs and other contemporaneous records.

3.6 It is the case of the petitioner that immediately upon obtaining possession of the plot, the petitioner or his predecessor-in-title constructed a commercial structure upon the subject plot and has continued to remain in possession thereof. It is further stated that the society consists of approximately 150 members who have raised various residential and commercial constructions.

3.7 The petitioner has alleged that with a view to defeat the rights of the purchasers including the petitioner, the original landowners instituted four civil suits being Special Civil Suit Nos.32, 33, 34 and 35 of 2006 against the purchasers seeking cancellation of the aforesaid sale deeds.

3.8 It is further the case of the petitioner that the said suits ultimately came to be compromised between the original landowners and the purchasers and four separate compromise decrees dated 16th April, 2021 came to be passed, whereby the transactions of the year 1999 were reversed in favour of the original landowners

despite the fact that the petitioner and other similarly situated persons were already in possession of the plots and that the proposed society had been in existence since the year 1999.

3.9 Thereafter, the original landowners entered into further transactions in respect of the subject land. Since the entries pertaining to the sale deeds were not mutated in the revenue record, the subsequent purchaser initiated RTS proceedings before the revenue authorities. The said proceedings culminated in an order dated 28th October, 2024 passed in Special Civil Application No.10700 of 2024, whereby this Court directed the revenue authorities to mutate the entries of the sale deeds while recording that possession of part of the land was with the petitioner and other similarly situated persons. The petitioner has also instituted Regular Civil Suit No.25 of 2025 before the competent Civil Court at Rajkot seeking declaration against the original landowners and the subsequent purchasers, which is presently pending adjudication.

3.10 In the interregnum, a Draft Town Planning Scheme No.10 for Motamava came to be introduced in respect of the subject land.

However, prior to the final sanction of the said scheme, the State Government introduced an amendment to Section 125 of the Gujarat Land Revenue Code, 1879 by way of the Gujarat Land Revenue (Amendment) Act, 2017 dated 18th April, 2017, whereby Section 125B came to be inserted enabling regularisation of proposed societies such as the one in the present case. Pursuant thereto, several Government Resolutions dated between 09th May, 2017 and 25th November, 2019 were issued prescribing the procedure for regularisation, which envisaged declaration of the concerned area as a transitional area followed by regularisation in accordance with law. Among the said Government Resolutions, the Government Resolution dated 19th September, 2017 assumes significance as it empowered the State Government to declare any such area as a transitional area for the purpose of regularising proposed societies.

3.11 According to the petitioner, in collusion with the town planning authorities, the original landowners and subsequent purchasers managed to obtain approval of a layout plan and also purportedly obtained vacant possession of the subject land on paper. The petitioner contends that such depiction of vacant possession

was wholly incorrect as the petitioner's construction had been in existence on the land for several decades and the same is also contrary to the recitals contained in the sale deeds.

3.12 The Town Planning Scheme No.10 ultimately came to be finally sanctioned on 21st January, 2019 and the plot in question was shown to be part of Final Plot No.72/1. The petitioner has contended that the said scheme was sanctioned without granting any opportunity of hearing to him. Consequently, the petitioner preferred a variation application dated 09th January, 2025 which, however, came to be rejected by the Rajkot Municipal Corporation on 29th March, 2025 on the ground of absence of ownership and regularisation.

3.13 It is further the case of the petitioner that the original landowners had also preferred an application seeking Non-Agricultural permission in respect of the land despite the existence of the proposed society. The petitioner raised detailed objections to the said application and it is alleged that the original landowners attempted to mislead the District Collector by representing that the land was vacant and in their possession. Upon

consideration of the objections, the learned District Collector rejected the application for N.A. permission by order dated 08th September, 2021.

3.14 Thereafter, the petitioner along with other similarly situated persons submitted an application dated 27th August, 2021 before the District Collector invoking powers under Section 125B(2) of the Gujarat Land Revenue Code seeking declaration of the area as a transitional area.

3.15 However, the District Collector, by order dated 31st May, 2024, declined to declare the area as a transitional area under Section 125B(2) on the ground that the possession over the subject land was disputed, despite the petitioner's contention that his possession over the plot was undisputed.

3.16 Subsequently, upon enactment of the Gujarat Regularization of Unauthorized Development Act, 2022, the petitioner submitted an application dated 11th June, 2023 in the prescribed form before the West Zone Office of the respondent No.3–Rajkot Municipal Corporation seeking regularisation of the existing construction upon payment of the prescribed impact fee of Rs.100/-.

3.17 The petitioner has asserted that the construction in question was admittedly carried out prior to the cut-off date prescribed under the Gujarat Regularization of Unauthorized Development Rules, 2023 and was therefore eligible for regularisation under the provisions of the said Act.

3.18 During the pendency of the said application, the Rajkot Municipal Corporation issued notices dated 17th August, 2024 and 01st October, 2024 calling upon the petitioner to produce development permission. The petitioner submitted replies to the said notices. Thereafter, a notice dated 08th October, 2024 under Section 260(1) of the Gujarat Provincial Municipal Corporations Act came to be issued, to which the petitioner filed a detailed reply dated 14th October, 2024.

3.19 However, without affording an opportunity of personal hearing and without duly considering the reply submitted by the petitioner, the Municipal Corporation passed an order dated 11th April, 2025 under Section 260(2) of the said Act. Aggrieved thereby, the petitioner preferred Special Civil Application No.5136 of 2025 before this Court wherein an

interim order of stay came to be granted on 17th April, 2025.

3.20 During the pendency of the said proceedings, the respondent No.3 authority passed the impugned order dated 18th July, 2025 rejecting the petitioner's application for regularisation of the subject construction on the basis of an adverse opinion rendered by the Panel Advocate regarding the issue of title and ownership.

3.21 Being aggrieved by the said order, the petitioner preferred an appeal dated 29th July, 2025 under Section 12 of the GRUDA Act before the respondent No.2 – the Appellate Authority.

3.22 The appeal was heard on 06th December, 2025. During the course of the hearing, the officer of the Rajkot Municipal Corporation admitted that no opportunity of hearing had been granted to the petitioner or to other similarly situated persons. Despite the same, the appeal came to be rejected by order dated 31st December, 2025 solely on the basis of the report of the Panel Advocate with regard to the issue of ownership.

3.23 Being aggrieved and dissatisfied with the aforesaid orders, the petitioner has

approached this Court by way of the present petition.

4. Heard Learned Advocate Mr.S.P. Majmudar with Learned Advocate Mr.Meet Kakadia for the petitioner, learned Assistant Government Pleader Mr.Sahil Trivedi for respondent Nos.1 and 2, Learned Advocate Mr.H.S. Munshaw for respondent Nos.3 to 5 and Learned Advocate Mr.R.C. Sejpal for respondent No.6.

5. Considering that the issue involved in the present petition lies within a narrow compass, and upon the request made by the learned advocates appearing for the respective parties, the matter is taken up for final hearing at the stage of admission.

5.1 Rule. Learned advocates appearing for the respective respondents waive service of notice of Rule.

6. Learned Advocate Mr.Majmudar appearing for the petitioner, while assailing the impugned orders, has advanced the following submissions:

6.1 It is submitted that the impugned orders passed by the authorities are patently illegal, having been passed in gross violation of the

principles of natural justice and, therefore, deserve to be quashed and set aside.

6.2 It is further submitted that the primary authority, while rejecting the application of the petitioner seeking regularisation, admittedly did not afford any opportunity of hearing to the petitioner. It is contended that while passing the impugned order, the authority concerned has merely relied upon the legal opinion of the Panel Advocate and has failed to apply its independent mind to the facts of the case. On this ground as well, the impugned order is liable to be quashed and set aside.

6.3 It is also submitted that the appellate authority has failed to exercise its appellate jurisdiction in a proper and judicious manner. Despite the fact that the Rajkot Municipal Corporation itself admitted that the original order had been passed without granting any opportunity of hearing to the petitioner, the appellate authority rejected the appeal on an altogether different ground, thereby resulting in serious miscarriage of justice.

6.4 It is contended that the appellate authority ought to have appreciated that the order impugned before it was admittedly passed

without affording an opportunity of hearing and was based solely upon the opinion of the Panel Advocate. In such circumstances, the appellate authority ought to have set aside the said order and remanded the matter to the primary authority for fresh consideration.

6.5 Learned Advocate further submitted that while discharging quasi-judicial functions, the authority is required to pass orders on the basis of material and evidence available on record and not merely on the basis of extraneous material such as legal opinion. The impugned order, having been passed solely on the basis of the legal opinion of the Panel Advocate, is therefore vitiated by bias and is liable to be quashed and set aside.

6.6 In support of the aforesaid submissions, learned advocate for the petitioner has placed reliance upon the decision of this Court in **Yamunaben D/o. Laxmiben Muljibhai v. Chandulal Muljibhai Patel**, reported in **2009 (5) GLR 3673 : 2009 (3) GLH 608.**

6.7 By making the above submissions, Learned Advocate for the petitioner requested this Court to allow the petition as prayed for.

7. *Per contra,* Learned Advocate Mr.Munshaw for respondent Nos.3 to 5, while supporting the impugned orders, has made following submissions:

7.1 Learned Advocate appearing for the respondent authorities submitted that the impugned orders passed by the authorities are fully justified in the facts of the present case. It is contended that there exists a serious dispute with regard to the title of the land in question and, therefore, the rejection of the petitioner's application seeking regularisation cannot, in any manner, be said to be illegal. On such grounds, it is urged that the present petition deserves to be dismissed.

7.2 It is further submitted that the petitioner does not possess any lawful title over the land in question and, therefore, the construction sought to be regularised stands upon land which is not owned by the petitioner. In such circumstances, it is contended that the provisions of the Gujarat Regularization of Unauthorized Development Act, 2022 do not permit regularisation of such construction.

7.3 Learned Advocate for the respondent authorities, however, was unable to dispute the fact that while passing the impugned orders, no

opportunity of hearing had been afforded to the petitioner. It was also not disputed that, apart from the legal opinion of the Panel Advocate, no independent material or evidence had been taken into consideration by the authorities while passing the impugned orders.

7.4 Learned Assistant Government Pleader Mr.Trivedi adopted the submissions of learned advocate Mr.Munshaw for respondent Nos.3 to 5.

7.5 Learned Advocate Mr.Sejpal for respondent No.6 could not dispute the fact that orders impugned are passed without any opportunity of hearing and solely based on the opinion of the panel advocate.

8. Having heard the learned advocates appearing for the respective parties and having perused the material available on record, the short question that arises for consideration before this Court is whether a quasi-judicial authority, while discharging its adjudicatory functions, can be said to be justified in passing an order solely on the basis of the legal opinion of the learned Panel Advocate, without independently examining the material on record and without applying its own independent mind?

9. In order to examine and decide the aforesaid question, it would be appropriate, at the outset, to take note of certain undisputed facts emerging from the record:

(i) While passing the order dated 18th July, 2025, the primary authority did not afford any opportunity of hearing to the petitioner.

(ii) A bare perusal of the said order dated 18th July, 2025 indicates that the same is in the nature of a cyclostyled order, bereft of any narration of relevant facts or discussion with regard to the material or evidence on record.

(iii) It further appears that the Town Planning Officer of the Rajkot Municipal Corporation has not applied his independent mind while passing the said order and has merely relied upon the legal opinion of the Panel Advocate.

(iv) The appellate authority, despite having recorded a finding that the order passed by the Assistant Town Planning Officer, Rajkot Municipal Corporation was passed without affording an opportunity of

hearing to the petitioner, did not deem it appropriate to examine the issue further and failed to appreciate that the same amounted to a gross violation of the principles of natural justice.

(v) The order passed by the appellate authority also appears to be devoid of any reasons and, therefore, cannot be said to be in conformity with the settled principles governing quasi-judicial decision-making and the principles of natural justice.

10. Keeping in mind the aforesaid facts, following observations from the decision of the coordinate Bench of this Court in case of **Yamunaben D/o.Laxmiben Muljibhai v. Chandulal Muljibhai Patel (supra)** are worth noting:

> *"5. Before parting with the present order, a word of caution to the Judicial Officers as well as litigants. A judgment is expression of opinion of Judge or Magistrate arrived at after due consideration of evidence and all arguments, if any, advanced before him. A judgment should be based strictly on the evidence on record and not on outside evidence, further acquired. A Judge should not go out of the record, raise his findings on matters within his personal knowledge and conjunctures. Similarly, nothing extra should be weighed with the Judge and Judge has to deliver judgment on his own, forming his own findings on appreciation of evidence and*

considering decisions cited. Similarly, all judicial functionaries have necessarily to have a unflinching character to decide a case with an unbiased mind and an essential requirement of judicial adjudication is that the Judge is impartial and neutral and is in a position to apply his mind objectively to the facts of the case put up before him. If he is predisposed or suffers from prejudices or has a biased mind, he disqualifies himself from acting as a Judge. In the present case, opinion of the Retd.Judge of Supreme Court was produced before the learned trial Court and learned trial Court while deciding application Exh.5 has not only considered the same but he has based his order on the basis of such opinion. Procedure adopted by the learned trial Court relying upon and deciding application Exh.5 relying upon opinion of Retd.Judge of Supreme Court is highly improper. As observed by the Hon'ble Supreme Court even a Judge is not supposed to import his own private knowledge. Similarly, a Judge is also not required to consider any opinion which is not forming part of the evidence and/or even otherwise he has to decide the case on applying his own mind and on appreciation of evidence. If he considers opinion of Retd.Judge of Supreme Court or any other Judge and decides the case, in that case, it can be said that he is influenced by such opinion and his decision based upon such opinion can be said to be biased decision. 'Justice should not only be done but should manifestly be seen to be done'. Therefore, in a case where any opinion of Retd. Judge or other Judge is placed before him or it is placed on record, infact it is his duty to see that such opinion is not forming part of the record and it is not produced on record. As such to produce opinion of Retd.Judge of any other opinion in the judicial proceedings by any litigant is highly improper and should be deprecated. If any such opinion is produced on record, it is to be held that it is only with a view to influence Judicial Officer which is not permissible."

11. Although the aforesaid decision was passed in a matter arising out from the provisions of the Code of Civil Procedure, 1908, however the analogy would not deviate only because the impugned orders are passed by the *quasi*-judicial authority.

11.1 Keeping in view the ratio laid down by this Court in the aforesaid decision and considering the facts of the present case, this Court finds that the authorities concerned have acted in clear and gross violation of the principles of natural justice. Not only was no opportunity of hearing afforded to the petitioner before passing the impugned order, but the order itself is conspicuously devoid of any discussion on facts or material placed on record. The authority appears to have mechanically relied upon the legal opinion of the learned Panel Advocate without undertaking any independent evaluation of the record or applying its own adjudicatory mind.

It is trite that a quasi-judicial authority is duty-bound to independently examine the facts of the case, consider the material on record and assign cogent reasons in support of the conclusion arrived at. Reliance upon a legal opinion may at best serve as an aid to the

decision-making process; however, such opinion cannot be treated as a substitute for the statutory authority's own satisfaction and reasoning. An order passed solely on the basis of such opinion, without independent application of mind, cannot be sustained in the eye of law.

The impugned order, being cryptic and bereft of reasons, clearly reflects non-application of mind and amounts to abdication of the quasi-judicial function vested in the authority. The requirement of recording reasons is not an empty formality; it is a fundamental facet of the principles of natural justice and ensures transparency, fairness and accountability in administrative and quasi-judicial decision-making.

This Court also deems it appropriate to observe that the principles of natural justice are neither new nor technical doctrines; they constitute the most basic and well-settled principles governing the exercise of statutory powers. Authorities exercising quasi-judicial powers are expected to scrupulously adhere to these principles both in letter and spirit. Unfortunately, in the present case, the conduct of the authorities demonstrates a complete disregard of these settled principles.

It needs to be emphasised that such casual and mechanical exercise of statutory powers not only causes serious prejudice to the parties concerned but also unnecessarily burdens the constitutional courts with avoidable litigation. Had the authorities adhered to the elementary requirement of affording an opportunity of hearing and passing a reasoned order upon independent consideration of the material on record, the present round of litigation could have been easily avoided.

Ordinarily, when this Court finds that an order has been passed in violation of the principles of natural justice, the Court refrains from entering into the merits of the controversy and remits the matter to the competent authority for fresh consideration in accordance with law. The present case is no exception. Authorities entrusted with quasi-judicial powers are, therefore, expected to bear in mind that strict adherence to the principles of natural justice is indispensable for maintaining fairness in administrative action and for preventing unnecessary wastage of precious judicial time.

12. In view of the foregoing discussion and reasons recorded hereinabove, the present petitions deserve to be allowed. Accordingly, the

impugned orders dated 31st December, 2025 and 18th July, 2025 are hereby quashed and set aside. The matters are remanded to the competent authority for fresh consideration. The said authority shall reconsider the applications preferred by the respective petitioners seeking regularisation, strictly in accordance with law and after affording due opportunity of hearing to the concerned parties, and shall pass a reasoned order in conformity with the principles of natural justice.

(NIRAL R. MEHTA,J)

ANUP

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ANUP VYOMESH PARIKH(HC00956), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 16/03/2026 17:14:33