

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/WRIT PETITION (PIL) NO. 18 of 2025**

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KURESHI IRFANBHAI MOHAMMADSHARIFBHAI & ORS.

Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR AFTABHUSEN ANSARI(5320) for the Applicant(s) No.
1,10,11,12,13,14,15,16,17,18,19,2,20,21,22,23,24,25,26,27,28,29,3,30,31,32,
33,34,35,36,37,38,39,4,40,41,42,43,44,45,46,47,48,49,5,6,7,8,9
GOVERNMENT PLEADER for the Opponent(s) No. 1
MR HS MUNSHAW(495) for the Opponent(s) No. 2,3

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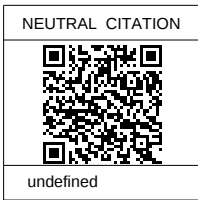
CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE D.N. RAY

Date : 01/08/2025

ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL)

1. No-one has put in appearance on behalf of the petitioners.

The present Public Interest Litigation has been filed raising an issue about eviction of approximately 900 families, who are occupying certain lands at the banks of the Aji river, District-Rajkot. The petitioners herein are seeking rehabilitation and the relief to quash the demolition notices dated 13.02.2025 issued by the Rajkot Municipal Corporation. The contention in the writ petition is that the demolition notices have been issued without assessing the humanitarian crisis and the petitioners

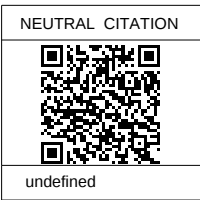


include elderly individuals, women, children and disabled persons who have no alternative housing or financial means to relocate. Their eviction without a comprehensive rehabilitation plan violates constitutional protections granted to vulnerable groups.

2. Taking note of the challenge in the present petition made at the instance of 49 occupants, herein, pertinent is to note that a Writ Petition (PIL) No. 47 of 2022 was filed for the same cause of action through the same advocate who is now appearing for the petitioners herein. The said writ petition has been decided vide judgment and order dated 14.06.2022 in the following manner:-

"4. Having regard to the rival contentions raised and the pleadings laid before this Court as on date, this Court is of the considered view it would suffice to direct the Corporation to consider the representation of the petitioners dated 11.06.2022 along with the objections already filed by the noticees and to pass suitable orders on merits and in accordance with law, expeditiously within an outer limit of eight (8) weeks from the date of receipt of this order and respondents are directed not to take any coercive steps during this period, including evicting the petitioners and similarly placed persons from Jangleshwar Area where they are said to be residing and to whom the notices have been issued.

4.1. The respondent - Corporation is also directed to communicate the decision taken on the representation after considering said representation of petitioners either by sending the same under Registered A.D. or by personally delivering and also by publishing the said decision in any

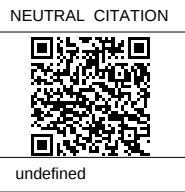


vernacular newspaper circulated in the locality so as to avoid any plea being put-forward by the noticees of they being ignorant of the order or the decision rendered by the Corporation on their representations having not been communicated.

4.2. After such decision is taken, the Corporation shall not take any coercive steps in the event of any adverse order being passed against the petitioners/notices for a period of four (4) weeks from the date of publication of the notice in the newspapers so as to enable petitioners to take such legal course as may be available to them.

5. With this observations, petition stands disposed of. We have made it clear that we have not expressed any opinion on merits and it would be open for the petitioners to urge all contentions before the respondent Corporation, if so advised. It is also made clear that the order which has been passed is by virtue of the statement made by Shri H.S. Munshaw, on instructions from the Corporation and the noticees would not be entitled to claim any individual notices for hearing."

3. Mr. H. S. Munshaw, learned advocate appearing for the respondent – Corporation would submit that in compliance of the order dated 14.06.2022, inquiry has been conducted and since the petitioners herein have failed to produce any document to support their claim, the demolition notices have been issued. It is further contended by Mr. Munshaw that unauthorized occupation and construction on river side are causing serious issues particularly during monsoon when there are heavy floods. A survey was undertaken in the year 2022 and efforts are being made to

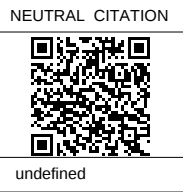


remove the encroachments on the side of River Aji.

4. We may further note that 169 occupants of a place known as Bapunagar Shamshan, Jangleshwar, Ekta Colony, Shala No. 70, District: Rajkot, which according to Mr. Munshaw is same place, filed another writ petition namely Writ Petition (PIL) No. 65 of 2024, after notices have been issued to them under Section 260 (1) of the Gujarat Provincial Municipal Corporations Act, 1949. The said writ petition has been disposed of with the following observations and directions:-

“7. It is further submitted that in reply to the notices, the petitioners made a joint representation to the competent authority on 7.10.2024, a copy whereof is appended at Annexure "E" to the writ petition. However, there has been no consideration as on date.

8. Taking note of the above, it may be considered that the petitioners herein have approached this Court at the stage of show-cause notice issued under Section 260(1) of the Gujarat Provincial Municipal Corporation Act, 1949, which have been issued in the name of individual petitioners. The reply to the said notices, in our considered opinion, is required to be filed by each of the petitioners herein, so as to make out their case for rehabilitation in accordance with the Regulations for Rehabilitation and Redevelopment of the Slums, 2010. Even for accommodation i.e. for allotment of houses under the Pradhanmantri Awaas Yojana, individual representations/applications are required to be filed by each of the petitioners herein. The joint representation filed by the petitioners dated 7.10.2024 appended with the writ petition is not an answer to the individual notice served upon each of the petitioners. No direction, as such, can be given on the representation dated 7.10.2024.



9. Advance copy of the writ petition has been served upon Mr. H.S. Munshaw, the panel counsel appearing for the respondent- Rajkot Municipal Corporation, whose name is shown in the cause-list. No one is present on behalf of the Corporation.

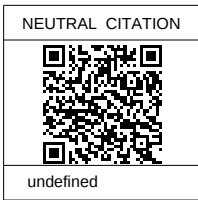
10. However, taking note of the above facts reflected from the record, we dispose of the present petition with the observations that the petitioners may submit their reply to the notices issued to them individually, along with the copy of this order within a period of two weeks from today. On receipt of the said reply, the competent authority namely the Municipal Commissioner, Rajkot or the Officer authorised by Municipal Commissioner, Rajkot shall be under obligation to deal with each of the replies individually and pass reasoned and speaking orders, separately, in accordance with the law, preferably within a period of three weeks thereof, under due intimation to the petitioners.

11. The claim of the petitioners for rehabilitation under the Regulations for Rehabilitation and Redevelopment of the Slums, 2010 (as noted hereinabove) shall be considered strictly in accordance with the provisions of the said Regulations. Claim of the petitioners herein for allotment of houses under the Pradhanmantri Awaas Yojana, if any, shall also be duly considered as per the Scheme.

12. As on date, as there is no other action against the petitioners and only show-cause notice has been issued on 3.10.2024 to which no reply has been given by the petitioners, we, therefore, do not find any reason to pass any further order on the contention by the learned advocate for the petitioners that the petitioners are facing imminent threat of demolition, which cannot be borne-out from the statements made in the petition.

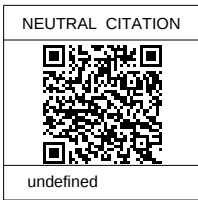
13. With the above, the writ petition stands disposed of."

5. Pertinent is to note that it is evident from page no. 72 of the paper-book that the petitioner no. 1 herein is the same



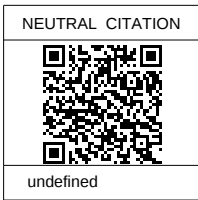
person who was the petitioner in Writ Petition (PIL) No. 65 of 2024. Vide judgment and order dated 23.10.2024, this Court has granted liberty to the petitioners therein to file their replies to the individual show cause notices issued to them along with the copy of the order of the High Court and on receipt of such reply, the officer concerned was required to take appropriate decision. It seems that the present petition (being third writ petition) has been filed by individual occupants (49 in number) challenging the decision of the Corporation in issuing demolition notices dated 13.02.2025 to them.

6. It may not be out of place to mention here that in the affidavit dated 06.05.2025 filed by the City Engineer, Rajkot Municipal Corporation, it is categorically stated that the letters dated 28.04.2025 were issued to the petitioners herein instructing them to submit their documents to avail the benefit of policy relating to Avas Yojna, for allotment of houses constructed for Economically Weaker Section under the Pradhan Mantri Aavas Yojna. Each residential unit proposed for allotment is having two rooms, kitchen and a washroom and ready



for allotment. The said scheme namely Tatya Tope Township constructed under the Prashan Mantri Aavas Yojna is situated at a distance of just 1 k.m. from the existing location where the petitioners are unauthorized occupants. The scheme is located in Sorathiyawadi area and the allotment of each of the houses is at the cost of less than Rs. 1 lakh per unit, though the estimated cost of each of such houses is approximately Rs. 8,50,000/- for allotment under the said scheme, as per the guidelines of the State Government under the Slum Rehabilitation Scheme. The petitioners were required to produce two documents, out of a list containing ten documents such as Ration Card - old/new, Election Card, Electricity Bill, Name in the survey list, birth date, School Leaving Certificate, driving license, BPL Card, bank account passbook, etc. Further, the petitioners are required to take appropriate steps for allotment of such houses. In any case, they cannot be permitted to occupy the present location.

7. It is also disclosed in the affidavit of the City Engineer, Rajkot Municipal Corporation that the letters dated



28.04.2025 were addressed to 992 encroachers in total to enable them to come forward with applications for benefits of Aavas Yojna and out of all, 30 encroachers have not accepted the same as yet.

8. Taking note of the above, it is evident that the petitioners (49 in number) by filing repeated petitions in the nature of Public Interest Litigation are actually agitating their personal cause. They are the interested parties and as such challenge to the individual notices issued to them dated 13.02.2025, cannot be maintained in the present petition filed in the nature of Public Interest Litigation. The writ petition is, therefore, dismissed for the simple fact that it has not been filed in the nature of public interest for espousing any cause of public interest rather agitating private disputes.

9. Dismissed accordingly.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

VARSHA DESAI