Reserved On : 08/05/2026
Pronounced On : 29/06/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 9037 of 2023

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIRAL R. MEHTA

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Approved for Reporting	Yes	No
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AJAYKUMAR BABULAL GEHLOT
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR HET N SHAH(11211) for the Petitioner(s) No. 1
MR SP MAJMUDAR(3456) for the Petitioner(s) No. 1
MR. SAHIL B. TRIVEDI, AGP, ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP for the Respondent(s) No. 1
MR MEHUL H RATHOD(701) for the Respondent(s) No. 3
NOTICE SERVED BY DS for the Respondent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE NIRAL R. MEHTA**

CAV JUDGMENT

1. By way of the present petition under Article 226 of the Constitution of India, the petitioner has invoked the extraordinary jurisdiction of this Court seeking issuance of a

writ of mandamus, or any other appropriate writ, order or direction in the nature thereof, declaring that the reservation of the Development Plan (DP) Road over the land in question has lapsed by operation of Section 20 of the Gujarat Town Planning and Urban Development Act, 1976.

2. The facts giving rise to the present petition, as pleaded by the petitioner, may briefly be stated thus:

2.1. The petitioner claims to be the owner and occupier of land bearing Survey Nos.41 and 42/P4, admeasuring 2529 square metres, situated at Village Nava Deesa, Taluka Deesa, District Banaskantha;

2.2. It is the case of the petitioner that the subject land came to be reserved for the first time in the Draft Development Plan published on 10.10.1975 and that such reservation has been continued from time to time. According to the petitioner, the reservation was continued upon revision of the Development Plan on 25.04.1994 and was thereafter again continued under the revised Development Plan sanctioned on 07.01.2016 for a further period of ten years;

2.3. The petitioner asserts that despite the reservation having continued for several decades, no proceedings for acquisition of

the land were initiated. It is, therefore, the petitioner's case that a purchase notice under Section 20 of the Gujarat Town Planning and Urban Development Act, 1976 came to be served upon the competent authority on 04.05.2022;

2.4. It is further the case of the petitioner that, in response to the aforesaid notice, respondent No.3, by communication dated 17.06.2022, informed the petitioner that the period of ten years contemplated under Section 20 of the Act was required to be reckoned from the date of sanction of the revised Development Plan, i.e. 07.01.2016.

3. Aggrieved by the aforesaid communication and the stand taken by the respondents, the petitioner has preferred the present petition invoking the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India.

4. Heard learned advocate Mr. S P Majmudar for the petitioner, learned Assistant Government Pleader Mr. Sahil Trivedi for the State-authorities and learned advocate Mr. Abhijit Rathod on behalf of learned advocate Mr. Mehul Rathod for the respondent No.3 - Deesa Nagarpalika. By consent of both the respective parties, the present petition is taken up for final hearing at the admission stage.

5. Rule returnable forthwith. Learned advocate Mr. Abhijit Rathod wavies service of rule for the respondent No.3 and learned AGP waives service of rule for the respondent No.1 and 2.

6. Learned advocate Mr. Majmudar for the petitioner, while assailing the action on the part of the respondent-authorities, has made following submissions:-

6.1. It is submitted that the land in question has been put under the reservation since almost 40 years without showing any inclination of acquisition, therefore, submitted that the action on the part of the respondent-authority is violating the provisions of Article 300A of the Constitution of India. Hence, the action deserves to be quashed and set aside and petition as prayed for be allowed;

6.2. It is submitted that notice under Section 20 (2) has already been issued upon the respondent and thereafter, further period of six months also expired and/or no steps are commenced for acquisition of the land in question and thus, reservation of the land is said to be deemed to have lapsed. It is, therefore, submitted that this Court by exercising its power under Article 226 of the Constitution of India, declared the land in question free from reservation in view of the provisions

of Section 20 of the Gujarat Town Planning & Urban Development Act, 1976;

6.3. It is further submitted that as per the Section 20 (2), once the period of 10 years from the date of coming into force of a final development plan or if proceedings under the Land Acquisition Act, 1894, are not commenced within such period, the right would accrue in favour of the owner and/or occupier to have declaration after a statutory notice and after expiring of six months thereafter. It is, therefore, submitted that in the present case, the acquisition was published in the year 1975 and admittedly, notice under Section 20 (2) issued on 04.05.2022 and thereafter, since no acquisition qua land in question made within period of six months issuance of notice dated 04.05.2022, the statutory right has been accrued in favour of the petitioner to get declaration that the reservation of land in question to have lapsed.

7. By making above submissions, learned advocate Mr. S P Majmudar for the petitioner, requested this Court to allow the present petition.

8. *Per contra*, learned advocate Mr. Abhijit Rathod appearing for respondent No.3, while opposing the present petition, has advanced the following submissions:-

8.1. It is submitted that the notice dated 04.05.2022 issued by the petitioner under Section 20(2) of the Gujarat Town Planning and Urban Development Act, 1976 is premature inasmuch as the Development Plan was last revised and sanctioned on 07.01.2016. It is contended that on the date of issuance of the said notice, the statutory period of ten years contemplated under Section 20 of the Act had not expired. It is, therefore, urged that the notice being premature, the present petition is misconceived and suffers from want of an accrued cause of action. Accordingly, it is prayed that the petition deserves to be dismissed;

8.2. It is further submitted that, having regard to the scheme of Section 20 of the Gujarat Town Planning and Urban Development Act, 1976, a notice under Section 20(2) can be issued only upon expiry of ten years from the date on which the final Development Plan comes into force, provided that the land has not been acquired or acquisition proceedings under the Land Acquisition Act, 1894 have not been commenced within the said period. It is contended that since the revised Development Plan came into force on 07.01.2016, the petitioner could have invoked Section 20(2) only after the expiry of ten years therefrom. However, in the present case,

the statutory notice was admittedly issued on 04.05.2022, much prior to the completion of the prescribed period. Consequently, the notice itself is contrary to the provisions of the Act, and no relief can be granted on the basis of such premature and legally unsustainable notice;

8.3. It is further submitted that the period of ten years contemplated under Section 20(2) is required to be reckoned from the date on which the final Development Plan comes into force. In this context, learned advocate has contended that a revised Development Plan prepared under Section 21 of the Gujarat Town Planning and Urban Development Act, 1976 is, for all practical purposes, a fresh final Development Plan, as the statutory procedure prescribed under Sections 9 to 20 of the Act is required to be followed afresh while undertaking such revision. It is submitted that the process necessarily includes inviting objections and suggestions from the public and culminates in sanction by the competent authority, upon which alone the revised Development Plan comes into force. It is, therefore, contended that every revision of the Development Plan gives rise to a fresh commencement of the statutory period under Section 20(2), and consequently, the period of ten years is required to be computed from the date on which the revised Development Plan comes into force and not from the

date of the original Development Plan;

8.4. To substantiate the aforesaid contentions, learned advocate Mr. Abhijit Rathod for the respondent, has placed reliance upon the decision in the case of ***Babubhai Kurjibhai Radadiya Vs. Surat Municipal Corporation & Ors,*** *in* ***Letters Patent Appeal No.1263 of 2011.***

9. By making above submissions, learned advocate Mr. Abhijit Rathod for the respondent No.3, has requested this Court to dismiss the present petition.

10. In rejoinder, learned advocate Mr. S.P. Majmudar appearing for the petitioner submitted that if the interpretation canvassed by the respondent-authorities, namely that the period of ten years is required to be computed afresh from the date of every revised Development Plan, is accepted, the provisions of Section 20(2) of the Gujarat Town Planning and Urban Development Act, 1976 would be rendered otiose and devoid of any practical efficacy.

10.1. It is submitted that the period of ten years contemplated under Section 20(2) of the Act is required to be reckoned from the date on which the final Development Plan first comes into force. It is contended that once the

Development Plan was initially sanctioned and brought into force in the year 1975, and the statutory period of ten years expired without acquisition of the land in question or without initiation of acquisition proceedings, the owner or occupier of the land acquired a statutory right to issue a notice under Section 20(2) of the Act at any point thereafter. It is further submitted that if, despite service of such notice, the land is neither acquired nor are any steps commenced towards its acquisition within the statutory period of six months, the reservation over the land is deemed to have lapsed by operation of law;

10.2. To substantiate the aforesaid contentions, learned advocate Mr. S P Majmudar for the petitioner, has placed reliance on following decisions:-

1) ***Palitana Sugar Mill Private Limited Vs. State of Gujarat,*** *in* ***Special Civil Application No.10108 of 2014,***

2) ***Bhavnagar University Vs. Palitana Sugar Mill Private Limited,*** *in* ***Civil Appeal No.8003 of 2021,***

3) ***Hariben Meghabhai Jasoliya Vs. State of Gujarat,*** *in* ***Special Civil Application No.1653 of 2014,***

4) ***Mrugee Traders And Developers Vs. Bhavnagar Area***

Development Authority, *in* ***Special Civil Application No.16791 of 2014,***

5) ***Shardaben Lallubhai Patel Vs. Vadodara Urban Development Authority,*** *in* ***Special Civil Application No.3825 of 2000.***

11. Having heard the learned advocates appearing for the respective parties and having perused the material placed on record, the following questions of law arise for consideration of this Court:-

(i) **"**Whether the competent authority is empowered to exercise its jurisdiction under Section 21 of the Gujarat Town Planning and Urban Development Act, 1976 to revise a Development Plan after the expiry of the period of ten years contemplated under Section 20(2) of the Act**?"**

(ii) **"**Whether the powers conferred upon the competent authority under Section 21 of the Gujarat Town Planning and Urban Development Act, 1976 can be exercised so as to defeat or derogate from the statutory right accrued in favour of the owner or person interested in the land under Section 20(2) of the Act**?"**

12. So as to decide the aforesaid question of law, in my

view, relevant provisions of the Gujarat Town Planning & Urban Development Act, 1976, pertaining to publication of development plan, deserves to be considered. For the sake of brevity, Sections 9, 10, 12, 13, 14, 16, 17, 18, 19, 20 and 21 are reproduced hereinbelow:

> ***Section 9. Development Plan*** *- (l) As soon as may be after the constitution of an area development authority for any development area under section 5 [or designation of a local authority as the area development authority under sub-section (l) of section 6,] the area development authority shall, not later than 'three years after the declaration of such area as a development area or within such time as the State Government may, from time to time, extend, prepare and submit to the State Government a draft development plan for the whole or any part of the development area in accordance with the provisions of this Act:*
> *(2) If a draft development plan is not prepared and submitted to the State Government by any area development authority within the period specified in sub-section (l) or within the period extended under that sub-section, an officer appointed by the State Government in this behalf may prepare and submit to the State Government in the prescribed manner a draft development plan and recover the cost thereof from such area development authority out of its funds.*
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> ***Section 10. Copy of draft development plan to be open for public inspection*** *- A copy of the draft development plan as prepared under section 9 in respect of any area shall be kept open for inspection by the public during office hours at the head office of the area development authority, or as the case may be, at the office of the authorized officer.*
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> ***Section 12. Contents of draft development plan*** *- A draft*

development plan [which would be in conformity with the development plan under the provisions of the Gujarat Metropolitan Planning Committee Act, 2008 (Guj. 18 of 20080] plan shall generally indicate the manner in which the use of land in the area covered by it shall be regulated and also indicate the manner in which the development therein shall be carried out.

(2) In particular, it shall provide, so far as may be necessary, for all or any of the following matters, namely:-
(a) proposals for designating the use of the land for residential, industrial, commercial [educational,] agricultural and recreational purposes [or such other purposes];
(b) proposals for the reservation of land for public purposes, such as schools, colleges and other educational institutions, medical and pubic health institutions, markets, social welfare and cultural institutions, theaters and places for public entertainment, public assembly, museums, art galleries, religious buildings, play-grounds, stadiums, open spaces, dairies and for such other purposes as may, from time to time, be specified by the State Government.
(c) proposals for designation of areas for zoological gardens, green belts, natural reserves [water body, water course] and sanctuaries;
(d) transport and communications, such as roads, highways, parkways, railways, waterways, canals and airport, including their extension and development;
(e) proposals for water supply, drainage, sewage disposal, other public utility amenities and services including supply of electricity and gas;
(f) reservation of land for community facilities and services;
(g) proposals for designation of sites for service industries, industrial estates and any other industrial development on an extensive scale;
(h) preservation, conservation and development of areas of natural scenery and landscape [and of heritage buildings and heritage precincts];

(i) preservation of features, structures or places of historical, natural, architectural or scientific interest and of educational value;
(j) proposals for food control and prevention of river pollution;
(k) proposals for the reservation of land for the purposes of Union, any State, local authority or any other authority or body established by or under any law for the time being in force;
(l) the filling up or reclamation of low lying, swampy or unhealthy areas or levelling up of land;
(m) provision for controlling and regulating the use and development of land within the development area, [including imposition of charges at such rate as may be provide for grant of Floor Space Index (FSI) or height, and also imposition of] conditions and restrictions in regard to the open space to be maintained for buildings, the percentage of building area for a plot, the location, number, size, height, number of stories and character of buildings and density of built up area allowed in specified area, the use and purposes to which a building or specified areas of land may or may not be appropriated, the sub-divisions of plots, the discontinuance of objectionable uses of land in any area in any specified periods, parking spaces, loading and unloading space for any building and the sizes of projections and advertisement signs and hoardings and other matters as may be considered necessary for carrying out the objects of this Act;
(n) provision for preventing or removing pollution of water or air caused by the discharge of waste or other means as a result of the use of land;
(o) such other proposals for public or other purposes as may from time to time be approved by the area development authority or as may be directed by the State Government in this behalf.

Section 13. Publication of draft development plan. *- (l)The area development authority or, as the case may be, the authorized officer shall, as soon as may be, after*

a draft development plan is prepared and submitted to the State Government under section 9, publish it in the Official Gazette and in such other manner as may be prescribed along with a notice in the prescribed manner, inviting suggestions or objections from any person with respect to the development plan-within a period of two months from the date of its publication.
(2) The following particulars shall be published along with the draft development plan, namely:-
(a) a statement indicating broadly the uses to which lands in the area covered by the plan are proposed to be put and any survey carried out for the preparation of the draft development plan;
(b) maps, charts and statements explaining the provisions of the draft development plan;
(c) the draft regulations for enforcing the provisions of the draft development plan;
(d) procedure explaining the manner in which permission for developing any land may be obtained from the area development authority or, as the case may be, the authorized officer;
(e) a statement of the stage of development by which it is proposed to meet any obligation imposed on the area development authority by the draft development plan;
(f) an approximate estimate of the cost involved in acquisition of land reserved for public purposes.

Section 14. Suggestions or objections to draft development plan to be considered *- If within the period specified in section l3 any person communicates Suggestions or in writing to the area development authority, or, as the case may be, to the authorized officer any suggestions or objections relating to the draft development plan, the said authority or officer shall consider such suggestions or objections and [and then shall submit the same to the State Government alongwith his or its opinion on such objections or suggestions]*

Section 16. Submission of draft development plan to the State Government for sanction – *(1) After a draft development plan is published as aforesaid and the*

objections or suggestions thereto, if any, are received, the area development, authority or, as the case may be, the authorized officer shall, within a period of six months from the date of publication of the draft development plan under section 13, submit to the state Government for its sanction the draft development plan and the regulations.

Provided that the State Government may, on an application by the area development authority or the authorized officer, by order in 'writing, extend from time to time, the said period by such further period or periods as may be specified in the order, so however, that the period or periods so extended shall not, in any case, exceed twelve months in the aggregate.

(2) The particulars published under sub-section (2) of section 13, and the suggestions or objections received under section 14, shall also be submitted to the State Government, along with the draft development plan.

Section 17. Power of State Government to sanction draft development plan *- 1) (a) On receipt of the draft development plan under section 16, the State Government may, by notification,-*

(i) sanction the draft development plan and the regulations so received, within the prescribed period, for the whole of the area covered by the plan or separately for any part thereof, either without modifications, or subject to such modifications, as it may consider proper; or

(ii) return the draft development plan and the regulations to the area development authority or, as the case may be, to the authorized officer, for modifying the plan and the regulations in such manner as it may direct:

Provided that, where the State Government is of opinion that substantial modifications in the draft development plan and regulations are necessary, the State Government may, instead of retuning them to the area development authority or, as the case may be, the authorized officer under this sub-clause, publish the modifications so considered necessary in the Official Gazette along with a notice in the prescribed manner

inviting suggestions or objections from any person with respect to the proposed modifications within a period of two months from the date of publication of such notice; or

(iii) refuse to accord sanction to the draft development plan and the regulations and direct the area development authority or the authorized officer to prepare a fresh development plan under the provisions of this Act.

(b) Where a development plan and regulations are returned to an area development authority, or, as the case may be, the authorized officer under sub-clause (ii) of clause (a), the area development authority, or, as the case may be, the authorized officer, shall carry out the modifications therein as directed by the State Government and then submit them as so modified to the State Government for sanction; and the State Government shall thereupon sanction them after satisfying itself that the modifications suggested have been duly carried out therein.

(c) Where the State Government has published the modifications considered necessary in a draft development plan as required under the proviso to sub-clause e (ii) of clause (a), the State Government shall, before according sanction to the draft development plan and the regulations, take into consideration the suggestions or objections that may have been received thereto, and thereafter accord sanction to the drafts development plan and the regulations in such modified form as it may consider fit.

(d)The sanction accorded under [clause (a), clause (b)] or clause (c) shall be notified by the State Government in the Official Gazette and the draft development plan together with the regulations so sanctioned shall be called the final development plan'

(e) The final development plan shall come into force on such date as the State Government may specify in the notification issued under clause (d).

(2) where the draft development plan submitted by an area development authority or, as the case may be, the authorized officer contains any proposals for the reservation of any land for a purpose specified in clause

(b) or clause (n) or clause (o)] of sub-section (2) of Section 12 and such land does not vest in the area development authority, the State Government shall not include the said reservation in the development plan, unless it is satisfied that such authority would acquire the land, whether by agreement or compulsory acquisition, within ten years from the date on which the final development plan comes into force.
(3) A final development plan which has come into force shall, subject to the provisions of this Act, be binding on the area development authority concerned and on all other authorities situated in the area of the development plan.
(4) After the final development plan comes into force, the area development authority concerned may execute any work for developing, re-developing or improving any area within the area covered by the plan in accordance with the
proposals contained in the development plan.

***Section 18. Extension or reduction of development plan** - (1) If at any time after a development plan prepared for any area has been sanctioned, the State Government is of opinion that it is necessary to extend or reduce the limits of such area, it may, by notification, extended or reduce the limits of such area and direct the area development authority to prepare, publish and submit to the State Government for sanction within the period specified by the State Government in this behalf, a draft development plan for the extended area or, as the case may be, the proposals for the withdrawal of the plan from the reduced area after following the procedure prescribed under this Ait for the preparation, publication and sanction of a development plan.*
(2) The draft development plan or the proposals for the withdrawal of a plan to be prepared under sub-section (l) may contain proposals for modifying the development plan already sanctioned, if such modifications are found absolutely necessary as a consequence of the extension, or, as the case may be, reduction of the area covered by the development plan in the interest of a rational

development of the area as so extended or reduced.

Section 19. Variation of final development plan. *- (1) If on a proposal from an area development authority in that behalf or otherwise, the State Government is of the opinion that it is necessary in the public interest to make any variation in the final development plan (hereinafter referred to as variation), it shall publish in the Official Gazette,(a) the variation proposed in the final development plan,*
(b) the amendment, if any, in the regulations, and
(c) the approximate cost, if any, involved in the acquisition of land, which by virtue of the variation would be reserved for a public purpose, alongwith a notice, inviting suggestions or objections from any person with respect to the variation within a period of two months from the date of publication of the variation.
(2) After considering the suggestions or objections, if any, received under sub-section (1) within the period specified therein and after consulting the area development authority in a case where the variation is not proposed by that authority, the State Government may, by notification, sanction the variation with or without modifications, as it may consider fit to do and such variation shall come into force on such date as may be specified in the notification.
(3) From the date of coming into force of the variation, the provisions of this Act shall apply to such variation, as they apply to a final development plan.
(4) If any person who is affected by such variation has incurred any expenditure in complying with the final development plan as it existed before such variation, such person shall be entitled to receive compensation,-
(i) where the variation is made on the proposal of an area development authority, from that authority, and
(ii) in any other case, from the State Government, if such expenditure is rendered abortive by reason of the variation of the plan.

Section 20. Acquisition of land.- *"[(1) The area development authority or any other authority for whose*

purpose land is designated in the final development plan for any purpose specified in clause (b), clause (d), clause (1), clause (k), clause (n) or clause (o) of sub-section (2) of section 12, may acquire the land,-
(a) by an agreement, or;
(b) in lieu of any development right by granting the owner against the area of land surrendered free of cost and free from all encumbrances;
(c) under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).]
(2) If the land referred to in sub-section (1) is not acquired by agreement within a period of ten years from the date of the coming into force of the final development plan or if proceedings under the Land Acquisition Act, 1894 (1 of 1894) are not commenced within such period, the owner or any person interested in the land may serve a notice on the authority concerned requiring it to acquire the land and if within six months from the date of service of such notice the land is not acquired or no steps are commenced for its acquisition, the designation of the land as aforesaid shall be deemed to have lapsed.

Section 21. Revision of development plan. *At least once in ten years from the date on which a final development plan comes into force, the area development authority shall revise the development plan after carrying out, if necessary, a fresh survey and the provisions of Sections 9 to 20, shall, so far as may be, apply to such revision.*

12.1. A plain reading of Section 9 of the Gujarat Town Planning and Urban Development Act, 1976 makes it manifest that upon constitution of an Area Development Authority, a statutory obligation is cast upon such authority to prepare and submit a draft Development Plan in respect of the whole or

any part of the development area to the State Government within a period of three years from the date of its constitution or within such extended period as may be granted by the State Government from time to time. The provision further contemplates that, in the event of failure on the part of the Area Development Authority to discharge the aforesaid statutory obligation within the prescribed or extended period, the State Government may authorise an officer appointed in that behalf to prepare and submit the draft Development Plan in the prescribed manner. The expenses incurred for such preparation are recoverable from the funds of the concerned Area Development Authority. Thus, the scheme of Section 9 unmistakably indicates that the preparation and submission of a draft Development Plan is not merely an enabling power but a statutory obligation, the performance whereof is ensured by providing a default mechanism empowering the State Government to step in and secure compliance with the mandate of the Act.

12.2. Section 10 of the Gujarat Town Planning and Urban Development Act, 1976 provides for public inspection of the draft Development Plan prepared under Section 9. The provision mandates that a copy of the draft Development Plan relating to the whole or any part of the development area shall

be kept open for inspection at the office of the Area Development Authority during office hours. The object underlying the provision is to ensure transparency in the planning process and to afford an opportunity to the public to acquaint themselves with the proposals contained in the draft Development Plan before the same is processed further in accordance with the provisions of the Act.

12.3. Section 12 of the Gujarat Town Planning and Urban Development Act, 1976 delineates the contents of a draft Development Plan. The provision contemplates that the draft Development Plan shall indicate the manner in which the use of land within the development area is proposed to be regulated and the manner in which the development thereof is intended to be carried out. It further enumerates, under clauses (a) to (o), the various matters which may be incorporated in the draft Development Plan, including the proposals and reservations necessary for planned and orderly development of the area. The object underlying Section 12 is to prescribe the essential components of the draft Development Plan so as to present a comprehensive framework of the proposed development of the area. The provision enables landowners, occupiers and other stakeholders to ascertain the nature and extent of the proposed land use, reservations and

developmental proposals affecting the area, thereby facilitating an informed exercise of their statutory rights under the subsequent provisions of the Act.

12.4. Section 13 provides for publication of the draft Development Plan after its preparation and submission to the State Government under Section 9. The provision contemplates publication of the draft Development Plan in the Official Gazette together with a notice in the prescribed manner inviting suggestions and objections from any person within the prescribed period. Sub-section (2) of Section 13 further mandates publication of the particulars specified in clauses (a) to (f), thereby ensuring that the persons likely to be affected by the proposed Development Plan are adequately informed of its contents and are afforded an effective opportunity to submit their suggestions or objections before the plan is finalised.

12.5. Section 14 casts a corresponding statutory obligation upon the Area Development Authority to consider all suggestions and objections received pursuant to the publication under Section 13. Upon such consideration, the Authority is required to forward the draft Development Plan to the State Government together with the suggestions and objections received and its opinion thereon. The provision thus ensures

meaningful consideration of public participation before the draft Development Plan is placed before the State Government for its consideration.

12.6. Section 16 prescribes the procedure and the time frame within which the draft Development Plan is required to be submitted to the State Government. The provision requires the Area Development Authority or the authorised officer, as the case may be, to submit the draft Development Plan within the period stipulated therein, together with the particulars published under Section 13(2), the suggestions and objections received under Section 14, and its recommendations thereon. Thus, the legislative scheme envisages that the State Government considers the draft Development Plan only after the entire consultative process contemplated under the Act has been duly completed.

12.7. Section 17 deals with the powers of the State Government upon receipt of the draft Development Plan. The State Government may sanction the draft Development Plan either with or without modifications, or return it to the Area Development Authority with such directions for modification as it may deem appropriate. Where the proposed modifications are of a substantial nature, the Act mandates a further process

of publication in the Official Gazette together with a notice inviting suggestions and objections from the public before such modifications are incorporated. The provision also empowers the State Government, in an appropriate case, to refuse sanction to the draft Development Plan and direct the Area Development Authority to prepare the same afresh. Upon completion of the statutory process and consideration of the suggestions and objections, if any, the Development Plan sanctioned by the State Government, with or without modifications, attains the status of the final Development Plan under the Act.

12.8. Section 18 empowers the State Government, by notification, to alter the limits of the area comprised in a sanctioned Development Plan by extending or reducing its extent. Consequent upon such alteration, the State Government may direct the concerned Area Development Authority to prepare, publish and submit an appropriate Development Plan for the altered area within the period specified in the notification. The provision is intended to facilitate planning adjustments arising from alteration of the limits of the development area.

12.9. Section 19 provides for variation of a final

Development Plan in public interest. The provision enables the Area Development Authority to propose such variation to the State Government. Upon receipt of such proposal, the State Government is required to publish the proposed variation in the Official Gazette and invite suggestions and objections from the public in the prescribed manner. After considering the suggestions and objections received and upon consultation with the Area Development Authority, the State Government may sanction the proposed variation, with or without modifications. Thus, even after a Development Plan has attained finality, the Act permits its variation, subject to adherence to the procedural safeguards embodied in the provision.

12.10. Section 20 deals with the acquisition of land designated or reserved in the final Development Plan. The provision confers upon the Area Development Authority or the authority for whose purpose the land is designated the power to acquire such land by any of the modes recognised under the Act, namely, by agreement with the owner, by grant of development rights in lieu of surrender of the land free from all encumbrances, or by resorting to compulsory acquisition in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Thus, Section 20

provides the statutory mechanism for acquisition of land reserved under the final Development Plan.

12.11. Sub-section (2) of Section 20 embodies a statutory safeguard intended to protect the rights of an owner or occupier whose land continues to remain under reservation or designation without being acquired within the period prescribed by the Act. The provision stipulates that where the land is neither acquired nor are acquisition proceedings commenced within a period of ten years from the date on which the final Development Plan comes into force, the owner or occupier becomes entitled to serve a notice upon the competent authority calling upon it to acquire the land. If, despite service of such notice, the land is not acquired or no steps towards its acquisition are commenced within a further period of six months, the reservation or designation over the land is deemed to have lapsed by operation of law. The legislative intent underlying Section 20(2) is to strike a balance between the power of the planning authority to reserve land for public purposes and the constitutional right of the owner to enjoy and deal with his property. The provision is intended to ensure that private property is not subjected to an indefinite or perpetual reservation without acquisition. However, the right conferred under Section 20(2) is not absolute and becomes

enforceable only upon fulfilment of the statutory preconditions. Firstly, the land must not have been acquired, nor should acquisition proceedings have been commenced, within a period of ten years from the date on which the final Development Plan comes into force. Secondly, upon expiry of the said period, the owner or occupier is required to serve the statutory notice contemplated under Section 20(2), calling upon the competent authority to acquire the land. It is only upon the failure of the authority to acquire the land or to commence acquisition proceedings within six months from the date of service of such notice that the legal fiction enacted by the Legislature comes into operation, resulting in the deemed lapse of the reservation or designation attached to the land.

12.12. Section 21 of the Gujarat Town Planning and Urban Development Act, 1976 provides for revision of the final Development Plan. The provision contemplates that the Area Development Authority shall revise the final Development Plan at least once in every period of ten years from the date on which the final Development Plan comes into force. It further mandates that, while undertaking such revision, the procedure prescribed under Sections 9 to 20 of the Act shall apply, so far as may be, as if the revision were the preparation of a fresh Development Plan. Thus, the process of revision is required to

conform to the same statutory safeguards and procedural requirements governing the preparation and sanction of the original Development Plan, including publication of the draft plan, invitation and consideration of objections and suggestions, and sanction by the State Government.

13. A conjoint reading of Sections 20 and 21 of the Gujarat Town Planning and Urban Development Act, 1976 assumes significance for deciding the controversy involved in the present petition. Section 20(1) empowers the Area Development Authority or the authority for whose purpose the land is designated to acquire the reserved land by adopting any of the modes contemplated under clauses (a), (b) and (c) thereof. Where, however, the authority neither acquires the land nor initiates acquisition proceedings within the statutory period, the consequences envisaged under Section 20(2) come into operation. Section 20(2) confers a statutory right upon the owner or occupier of the land to serve a notice upon the competent authority requiring it to acquire the land. If, despite service of such notice, the authority fails to acquire the land or to commence acquisition proceedings within six months therefrom, the Legislature has created a legal fiction whereby the reservation or designation over the land is deemed to have lapsed. Thus, the deeming fiction under Section 20(2) becomes

operative only upon fulfilment of the statutory preconditions, namely, (i) failure to acquire the land or commence acquisition proceedings within the prescribed period; (ii) service of the statutory notice by the owner or occupier; and (iii) continued inaction on the part of the authority for a further period of six months after receipt of such notice.

13.1. Section 21, on the other hand, enables the Area Development Authority to revise the final Development Plan at least once in every period of ten years from the date on which the final Development Plan comes into force. The provision further mandates that, while undertaking such revision, the procedure prescribed under Sections 9 to 20 shall, so far as may be, apply afresh. In the considered opinion of this Court, if the Area Development Authority intends to exercise its power of revision under Section 21, such exercise must necessarily be initiated within the period of ten years contemplated by the provision. Once the revision process is lawfully commenced within the said period, the occasion for invocation of Section 20(2) does not arise, as the statutory process envisaged under Sections 9 to 20 stands set in motion afresh.

Consequently, upon initiation of revision proceedings within the prescribed period, the landowner or occupier again

becomes entitled to participate in the statutory process by submitting suggestions and objections in accordance with Section 14 and the other allied provisions. Upon completion of the procedure prescribed under Sections 9 to 20 and sanction of the revised Development Plan by the State Government, such revised Development Plan assumes the character of the final Development Plan under the Act. Thereafter, the revised final Development Plan supersedes the earlier final Development Plan, and the period of ten years contemplated under Section 20(2) is liable to be reckoned from the date on which the revised final Development Plan comes into force.

13.2. The language employed in Section 21, in the opinion of this Court, is of considerable significance. The Legislature has consciously provided that the final Development Plan shall be revised "at least once in every ten years" from the date on which it comes into force. The expression employed by the Legislature indicates that the statutory power of revision is intended to be exercised within the said period and not at any indefinite point of time thereafter. If the contrary interpretation is accepted, the statutory protection conferred upon the owner or occupier under Section 20(2) would stand rendered illusory, as the authority could indefinitely postpone acquisition by initiating revision

proceedings after the owner's right has already accrued.

Therefore, this Court is of the considered view that where the revision proceedings are not initiated within the prescribed period of ten years, and the conditions stipulated under Section 20(2) otherwise stand fulfilled, the statutory right accrued in favour of the owner or occupier cannot be defeated by subsequently invoking Section 21. The rights conferred under Sections 20 and 21 are complementary and operate within their respective statutory fields. While the authority possesses the power to revise the Development Plan, such power is conditioned by the temporal limitation embodied in Section 21. Correspondingly, the right of the owner or occupier under Section 20(2) becomes enforceable only upon fulfilment of the statutory conditions prescribed therein. Thus, if there is neither acquisition of the land nor initiation of revision proceedings within the prescribed period of ten years, and despite service of the statutory notice the authority fails to acquire the land or commence acquisition proceedings within six months, the reservation is deemed to have lapsed by operation of law.

14. The scheme of the Gujarat Town Planning and Urban Development Act, 1976, as emerging from the foregoing

discussion, may, in brief, be summarised as under:-

14.1 Upon constitution of an Area Development Authority for a development area, a statutory obligation is cast upon such authority to prepare and submit a draft Development Plan to the State Government in accordance with Section 9 of the Act.

14.2. After preparation of the draft Development Plan, the Area Development Authority is required to publish the same in the Official Gazette together with a notice in the prescribed manner inviting suggestions and objections from the public within the period prescribed under the Act.

14.3. Upon expiry of the prescribed period, the Area Development Authority is under a statutory obligation to consider all suggestions and objections so received and thereafter submit the draft Development Plan to the State Government along with the suggestions and objections and its opinion thereon.

14.4. Upon receipt of the draft Development Plan, the State Government may sanction the same with or without modifications, return it to the Area Development Authority for carrying out such modifications as it may deem appropriate, or, where the proposed modifications are substantial, publish

the proposed modifications and invite objections and suggestions from the public before according sanction. The State Government may also refuse to accord sanction and direct the Area Development Authority to prepare a fresh draft Development Plan in accordance with the provisions of the Act.

14.5. Even after the Development Plan attains finality, the Area Development Authority may, in public interest, propose variation of the final Development Plan to the State Government, which may be sanctioned after following the procedure prescribed under the Act.

14.6. Land reserved or designated under the final Development Plan may be acquired by the Area Development Authority or the authority for whose benefit the reservation is made by adopting any of the modes contemplated under Section 20(1). However, where the land is neither acquired nor are acquisition proceedings commenced within a period of ten years from the date on which the final Development Plan comes into force, the owner or any person interested in the land becomes entitled to serve the statutory notice contemplated under Section 20(2). If, despite service of such notice, the land is not acquired or no steps towards acquisition

are commenced within a further period of six months, the reservation or designation over the land is deemed to have lapsed by operation of law.

14.7. Section 21 empowers the Area Development Authority to revise the final Development Plan at least once in every period of ten years from the date on which the final Development Plan comes into force. While undertaking such revision, the procedure prescribed under Sections 9 to 20 of the Act is required to be followed afresh, thereby ensuring compliance with all statutory safeguards, including publication, invitation of suggestions and objections, consideration thereof, and sanction by the State Government.

14.8. Thus, where neither the land is acquired nor are acquisition proceedings initiated, and the Area Development Authority also fails to initiate proceedings for revision of the final Development Plan within the prescribed period of ten years, the owner or person interested in the land acquires the statutory right to issue a notice under Section 20(2). If, notwithstanding service of such notice, the authority fails to acquire the land or commence acquisition proceedings within six months, the legal fiction contemplated under Section 20(2) comes into operation, resulting in the deemed lapse of the

reservation or designation over the land.

15. Keeping in view the aforesaid statutory scheme and the conjoint reading of Sections 20 and 21 of the Gujarat Town Planning and Urban Development Act, 1976, this Court is of the considered opinion that the power of revision of the final Development Plan under Section 21 can be validly exercised only if the process for such revision is initiated within the period of ten years from the date on which the final Development Plan comes into force. The language employed in Section 21, particularly the expression "at least once in every ten years", manifests the legislative intent that the exercise of the power of revision is circumscribed by the said period and is not intended to be exercised at any indefinite point of time thereafter. If no proceedings for revision are initiated within the prescribed period of ten years, the Area Development Authority cannot subsequently invoke Section 21 so as to defeat or postpone the statutory consequences contemplated under Section 20(2). The power of revision, though statutory, is required to be exercised strictly in the manner and within the time frame prescribed by the Legislature. Viewed holistically, the scheme of the Act maintains a delicate balance between the planning powers of the State and the proprietary rights of the landowner. While the Act empowers the planning

authority to reserve private land for achieving planned and orderly development and further permits revision of the Development Plan from time to time, the Legislature has simultaneously incorporated an inbuilt safeguard in favour of the landowner by enacting Section 20(2). The object is to ensure that private property is not kept under reservation indefinitely without acquisition. Thus, where the competent authority intends to continue the reservation by revising the Development Plan, it is incumbent upon it to initiate the revision proceedings within the period prescribed under Section 21. Failure to do so results in the accrual of the statutory right in favour of the owner or occupier to invoke Section 20(2), and upon fulfilment of the conditions stipulated therein, the legal fiction of deemed lapse of reservation comes into operation. Any interpretation permitting initiation of revision proceedings after such right has accrued would render the protection engrafted under Section 20(2) largely illusory and would defeat the legislative intent underlying the provision.

16. In view of the aforesaid discussion, this Court is of the considered opinion that the validity of a reservation under the Gujarat Town Planning and Urban Development Act, 1976 and the applicability of Sections 20 and 21 thereof would necessarily depend upon the facts and circumstances of each

case. No straight-jacket formula can be applied and each case is required to be examined on its own factual matrix. By way of illustration, though not exhaustively, the following factors would ordinarily assume relevance:-

(i) The date on which the final Development Plan came into force.

(ii) The date on which the statutory period of ten years prescribed under Section 20(2) expired.

(iii) Whether the land was acquired or whether acquisition proceedings were commenced within the said period of ten years.

(iv) Whether the Area Development Authority initiated proceedings for revision of the final Development Plan under Section 21 and, if so, the date on which such proceedings were initiated.

(v) The date on which the revised Development Plan, if any, was sanctioned and brought into force.

(vi) The date of issuance and service of the statutory notice under Section 20(2) by the owner or person interested in the land.

(vii) Whether any steps towards acquisition were undertaken

by the competent authority within six months from the date of service of the notice contemplated under Section 20(2).

(viii) The date on which the statutory period of six months from the service of the notice expired.

(ix) Whether, on the date of issuance of the notice under Section 20(2), any legally sustainable proceedings for revision under Section 21 or acquisition proceedings were already pending or had been validly initiated.

(x) Whether the statutory conditions precedent for invocation of the legal fiction of deemed lapse under Section 20(2) stood fulfilled.

The aforesaid factors are merely illustrative and not exhaustive. The determination in every case would necessarily depend upon the cumulative effect of the relevant facts and the sequence in which the statutory events have occurred.

17. In the course of hearing, with a view to ascertain the precise factual matrix and to appreciate the rival submissions in the proper perspective, this Court specifically called upon the learned AGP to place on record the relevant dates and chronological sequence of events. In particular, the learned AGP was requested to furnish the dates on which the original

final Development Plan came into force, the expiry of the corresponding period of ten years, the dates on which the subsequent revised Development Plans came into force and the expiry of the respective periods of ten years therefrom. More importantly, the learned AGP was also directed to indicate the dates on which the proceedings for revision of each of the Development Plans under Section 21 of the Gujarat Town Planning and Urban Development Act, 1976 were initiated and concluded, so as to enable this Court to determine whether the exercise of the power of revision had been undertaken within the statutory period contemplated under the Act. Pursuant to the aforesaid directions, the learned AGP has tendered a brief note prepared on the basis of the official record available with the respondent-authorities. Since the correctness of the chronology is not in dispute and the same would facilitate adjudication of the controversy involved, the said chronology is reproduced hereinbelow for the sake of convenience.

Sr No.	Date	Particulars
1.	10.10.1975 30.11.1975	Development plan of certain areas of the Deesa Town was sanctioned.

		30.11.1975: Sanctioned comes into force development. - The 10-year period as envisaged under the act gets complete on 29.11.1985.
2.	30.01.1978	The Gujarat Town Planning and Urban Development Act, 1976 came into force
3.	22.09.1986	The Deesa Nagarpalika passes a resolution being no. 22/1986 extended 3 months, i.e. 31.12.1986 for submitting of revised development plan as provided for under Section 21 of the Act.
4.	29.12.1986	The Area Development Authority submitted the plan to the State Government as per Section 9 of the plan.
5.	15.01.1987 18.11.1987	Objections and suggestions were invited as envisaged under Section 13 of the Act by Nagarpalika. Decision on such objections and suggestions were given by the Nagarpalika by resolution and were published in official gazette on 09.06.1988.

6.	17.08.1988	Deesa Nagarpalika makes an application to the State Government for extension of time to submit draft u/s 16 of the Act.
7.	25.01.1989	As the Nagarpalika did not finish to prepare finalizing the first revised development plan within time frame stipulated under Section 9, the State Government in exercise of power u/s 9(2) r/w Section 109 of the Act appointed the Deputy Town Planner for preparing the development plan.
8.	26.09.1990 02.11.1991	Deputy Town Planner as appointed by the State submitted Revised draft development plan to the State u/s 16 of the Act. The State under proviso of Section 17(1)(ii) of the Act published modifications to the first revised development plan and invited objections and suggestions.
9.	25.04.1994 26.05.1994	First revised development plan was sanctioned by the State Government. First Revised Development Plan for certain

		areas of the said town came into force. • Over a part of subject property, the 24 metre development plan road was sanctioned. *(No objections by the petitioner* **The ten year period as envisaged under the Act would get over on 25.05.2004.**
10.	14.11.2003	Deesa Nagarpalika forwarded proposal to Regional Office of Town Planning to add additional villages within its territorial limits.
11.	11.02.2004	The TP Committee of the Nagarpalika resolved to take appropriate steps for raising the development plan vide resolution no.5. On 29.03.2004, the general board of the Nagarpalika vide resolution no.136 approved the resolution no.5.
12.	30.10.2004	General body of Deesa Nagarpalika resolved to prepare 2nd revised development plan in consulatation with the Town Planner of Palanpur Branch and further gave powers to the TP committee of Nagarpalika to execute

		the same.
13.	17.09.2007 15.02.2008	Mauje: Rajpur village added within Deesa Nagarpalika as per request dated 14.11.2003 (mentioned above). Deesa Nagarpalika forwarded proposal to the State to include the newly added village within the ambit of development area as envisaged under Section 3 of the Act.
14.	30.03.2013	The Nagarpalika submitted draft 2nd revised development plan as per Section 9(1) of the Town Planning Act to the State. By way of official gazette, objections and suggestions were invited by the Nagarpalika on the same date.
15.	27.09.2013	Decision on such objections and suggestions were given by the Nagarpalika by resolution and were published in official gazette on 11.02.2014.
16.	08.08.2014	The Nagarpalika submitted 2nd revised draft development plan to the State u/s 16 of the Act.
17.	31.07.2015	State called for objections and suggestions in lieu of modifications proposed to be made

		u/s 17 of the Act.
18.	07.01.2016	2nd revised development plan came into force. • Over a part of subject property, the 24 metre development plan road was sanctioned. *(No objections by the petitioner)*

18. Upon examination of the chronology furnished by the respondent-authorities, this Court finds that the material dates necessary for determining the controversy are conspicuously absent. Neither the affidavit-in-reply filed by the Area Development Authority, namely, Deesa Nagarpalika, nor the note tendered during the course of hearing discloses the exact dates on which the proceedings for revision of the Development Plans under Section 21 of the Gujarat Town Planning and Urban Development Act, 1976 were initiated. In the absence of such vital particulars, despite a specific direction issued by this Court, an adverse inference deserves to be drawn against the respondent-authorities. From the material available on record, it appears that the original final Development Plan came to be sanctioned on 30.11.1975, and

the statutory period of ten years therefrom expired on 29.11.1985. It further appears that although the Gujarat Town Planning and Urban Development Act, 1976 had come into force, the Area Development Authority, namely Deesa Nagarpalika, passed Resolution No.22 of 1986 only on 22.09.1986 for submission of a revised Development Plan under Section 21 of the Act, i.e., after expiry of the statutory period of ten years. Be that as it may, the first revised Development Plan ultimately came to be sanctioned on 26.05.1994, and the corresponding period of ten years expired on 25.05.2004. The material on record further indicates that the decision to prepare the second revised Development Plan was taken only on 30.10.2004, again after expiry of the prescribed period of ten years. Thereafter, the draft second revised Development Plan came to be submitted to the State Government under Section 9 on 30.03.2013, followed by its submission under Section 16 on 08.08.2014, and ultimately the second revised Development Plan came to be sanctioned on 07.01.2016. Thus, the chronology emerging from the record unmistakably reveals that at every stage the process of revision was initiated beyond the statutory period of ten years contemplated under Section 21 of the Act. Even thereafter, the authorities took several years to complete the statutory exercise culminating in sanction of the revised Development Plans. Keeping the aforesaid

chronology in juxtaposition with the scheme of Sections 20 and 21 of the Act, this Court is of the considered view that the respondent-authorities have failed to exercise their statutory powers within the time frame prescribed by the Legislature. The repeated revisions of the Development Plan have not been preceded by timely initiation of proceedings under Section 21 and, therefore, cannot have the effect of defeating the statutory right accruing to the petitioner under Section 20(2). The record further discloses an unexplained and prolonged delay on the part of the respondent-authorities in undertaking the statutory exercise. The manner in which the proceedings have been conducted reflects complete administrative lethargy and indifference to the mandate of the Act. As a consequence thereof, the petitioner has remained deprived of the beneficial enjoyment of his property for nearly five decades without the land being acquired in accordance with law. While the State and the planning authorities undoubtedly possess statutory powers to reserve private land for public purposes in furtherance of planned development, such powers are required to be exercised strictly in conformity with the procedure and within the time limits prescribed by the Legislature. They cannot be exercised in a manner that permits reservation of private property for an indefinite period, thereby frustrating the statutory protection conferred upon the landowner under

Section 20(2). In the facts of the present case, this Court is satisfied that the original final Development Plan having come into force on 30.11.1975, and no proceedings for its revision having been initiated within the statutory period of ten years, any subsequent exercise of power under Section 21, initiated beyond the prescribed period, cannot be recognised as a valid exercise of statutory power so as to defeat the rights which had already accrued in favour of the petitioner.

19. In view of the foregoing discussion, this Court has no hesitation in holding that the continued reservation of the petitioner's land for almost fifty years is contrary to the scheme and mandate of the Gujarat Town Planning and Urban Development Act, 1976. The respondent-authorities having neither acquired the land within the statutory period nor initiated proceedings for revision of the final Development Plan within the period contemplated under Section 21, the statutory right accrued in favour of the petitioner under Section 20(2) cannot be defeated by initiating revision proceedings thereafter. Any such revision or initiation of revision proceedings beyond the prescribed period would be incapable of defeating the statutory consequences flowing from Section 20(2). It is an admitted position that the petitioner served the statutory notice under Section 20(2) on 04.05.2022. Despite expiry of six

months from the date of service of the said notice, neither was the land acquired nor were any proceedings for acquisition commenced. Consequently, the legal fiction embodied under Section 20(2) stood attracted, resulting in the deemed lapse of the reservation over the land in question.

20. In view of the aforesaid discussion, the submissions advanced by learned advocate Mr. Rathod appearing for the respondent–Area Development Authority, namely Deesa Nagarpalika, do not merit acceptance and are accordingly rejected. The decision relied upon by him in ***Babubhai Kurjibhai Radadiya (Supra)*** is clearly distinguishable on facts and has no application to the controversy involved in the present case.

21. Consequently, the present petition succeeds and is accordingly allowed. It is hereby declared that the reservation of the Development Plan Road over the land bearing Revenue Survey Nos.41 and 42/P4, admeasuring 2529 square metres, situated at Village Nava Deesa, Taluka Deesa, District Banaskantha, has lapsed in terms of Section 20(2) of the Gujarat Town Planning and Urban Development Act, 1976. Rule is made absolute to the aforesaid extent. No order as to costs.

(NIRAL R. MEHTA,J)

FURTHER ORDER

After the pronouncement of judgment, learned advocate Mr. Rathod has prayed this Court to stay the implementation of this judgment.

Having considered the scheme of the Act and keeping in mind the facts and circumstances of this case, the request is refused.

(NIRAL R. MEHTA,J)

NIHAL PATEL