

(2014) 09 GUJ CK 0101

In the Gujarat High Court

Case No : Special Civil Application No. 10536 of 2011

Unique Yarn Industries Pvt. Ltd.

APPELLANT

Vs

Gujarat Industrial Development Corporation

RESPONDENT

Date of Decision : 23-09-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 5, 115, 115(3)
Constitution of India, 1950 — Article 226
Gujarat Town Planning and Urban Development Act, 1976 — Section 16

Citation : (2014) 09 GUJ CK 0101

Hon'ble Judges : G.B. Shah, J

Bench : Single Bench

Advocate : Vidhi J. Bhatt, Advocate for the Appellant; Chinmay M. Gandhi, M.B. Gandhi, H.L. Patel, S.P. Majmudar and P.P. Majmudar, Advocate for the Respondent

Judgement

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G.B. Shah, J.—This case reminds me of Muhammad-Bin-Tughlaq (1323-1327 A.D.) who was Sultan of Delhi. It is true that success is not an outcome of knowledge alone. In spite of being a learned person, a scholar and a man of vision and innovations, he earned the epithet of "PAGLA TUGHLAQ" on account of his impulsive behaviour and hasty moves, which failed and added to the miseries of his courtiers and the common people, causing them great hardships and sufferings. Shifting of his capital from Delhi to Daulatabad was a great failure in his era. Prior to independence of India, most of such "Kingdoms-Rajvadas" merged and democracy prevailed in India and in turn, Constitution of India was formed. It was thought that "achhe din a gaye" but the ground reality is altogether different. This case is a classic example of misuse of power, carelessness and negligent attitude of high ranking Government officials of GIDC, who have no heart and regards towards truth but act as per their whims and fancies.

1.1 Heard Ms. Vidhi J. Bhatt, learned advocate for the petitioners, Mr. M.B. Gandhi, learned advocate for respondent Nos. 1 and 2, M/s. H.L. Patel advocates for respondent No. 3, and Mr. S.P. Majmudar, learned advocate for respondent No. 4. Though served, none appeared for respondent No. 5.

2. The uncontroversial brief facts between the parties read as under:-

2.1 Petitioner No. 1 is a company registered under the Indian Companies Act, 1956 and petitioner No. 2 is its Director and shareholder. The petitioners wanted to manufacture yarn and therefore, they applied to the respondent No. 1-Gujarat Industrial Development Corporation (hereinafter referred to as "GIDC" for short) for allotment of plot in Vatva Industrial Estate. Therefore, on 01.05.1991, the petitioners gave an application for registering the claim for allotment of plot alongwith requisite amount of Rs. 5,000/- to GIDC. Thereafter, on 11.6.1991, GIDC allotted the petitioners a plot bearing No. 4801/4 in Phase-IV, Vatva, admeasuring 2765 Sq. meters for a total consideration of Rs. 4,97,500/-. It was stated in the said allotment order that possession of the said plot will be handed over to the petitioners on payment of 25% of the total amount i.e. Rs. 1,24,425/-. The petitioners paid 25% remaining amount of Rs. 98,425/- by way of Demand Draft on 22.7.1991 and 24.7.1991. On 14.8.1991, an agreement was entered into between the petitioners and the respondents with certain terms and conditions including the term to complete the construction within a period of two years subject to further extension. Till September, 1993, the petitioners paid total amount of Rs. 2,65,161/-. On 29.09.1993, the petitioners wrote a letter to GIDC for extension of time for construction as the Ahmedabad Municipal Corporation (hereinafter referred to as "AMC" for short) was asking for sub-plotting of plot No. 4801 with sketch plan of 4801/4. GIDC on 30.10.1993 gave No Objection Certificate to the effect that if AMC approves the building plan for plot No. 4801/4 of the petitioners, GIDC has no objection. On 25.11.1993, the petitioners addressed a letter to the Regional Manager of GIDC stating that AMC was insisting for subdivision of plot No. 4801, but till 11.4.1994, the petitioners did not receive any reply from GIDC. Therefore, from 5.9.1994 to 27.12.1995, the petitioners reiterated their request regarding sub-division of plot No. 4801. Thereafter, on 29.12.1995, the petitioners received a letter from respondent No. 2 stating that they have taken possession of the plot on 31.03.1995 by adjusting amount paid by the petitioners. Being aggrieved by the said order, the petitioners filed Special Civil Application No. 1124 of 1996 before this Court wherein this Court has passed the following order:-

" Rule returnable on 15.3.1996. Meanwhile, Plot No. 4801/4 at GIDC, Vatva Ahmedabad shall not be allotted to any one else by the respondents. D/S permitted.

Dt. 23.02.1996."

Thereafter, vide order dated 8.2.2006, this Court granted interim relief restraining the respondents from allotting the plot in question to anyone else and

directed the parties to maintain status-quo. Said order reads as under:-

"1. Shri M.B. Gandhi, advocate appearing on behalf of the respondent Nos. 1 and 2 has submitted that the impugned order be treated as cancelled and the petitioner will be given an opportunity of being heard and an additional opportunity will be given and considering the same, afresh order in accordance with law and on merits will be passed.

2. Learned advocate appearing on behalf of both the parties have jointly submitted that till a fresh decision is taken, let status-quo as on today be continued.

3. In view of the aforesaid statement, the impugned order is hereby quashed and set aside and it will be open for the respondent Nos. 1 and 2 to pass an appropriate order afresh in accordance with law and on merits after giving an opportunity to the petitioner and until then, the parties are directed to maintain status-quo. The petition is disposed of accordingly. However, there will be no order as to costs."

[Emphasis Supplied]

2.2 The respondents GIDC filed affidavit-in-reply in the above referred matter, nine years after admission. Moreover, as referred above, a statement was made that the impugned order in the said petition is treated to be cancelled and the petitioners will be given an opportunity of hearing and a fresh order will be passed. Thereafter, on 7.8.2006, the petitioners made a representation to GIDC for approval of sub-plotting, sketch plan, NOC etc. On 19.10.2007, the Regional Manager, GIDC, addressed a letter to the petitioners (copy whereof has been forwarded to the AMC too) stating that the plot No. 4801 has been divided into five parts. The petitioners sent a reminder on 11.6.2009, however, as GIDC did not take any action, the petitioners filed Special Civil Application No. 6094 of 2010 wherein this Court, vide order dated 20.7.2010, directed GIDC to decide the issue in question within two months. Said order reads as under:-

"1. Heard learned advocate Mr. J.D. Ajmera for petitioners, learned advocate Mr. M.B. Gandhi for respondent Nos. 1 and 2 and learned advocate Mr. Vijay Patel for respondent No. 3.

2. The grievance of present petitioner is that in pursuance to the order passed by this Court in SCA No. 1124 of 1996 dated 8.2.2006, a detailed representation has been made to the respondent No. 1 Gujarat Industrial Development Corporation on 7.8.2006 which remained unanswered and no response given by respondent No. 1 Gujarat Industrial Development Corporation.

3. Therefore, it is directed to respondent No. 1 Gujarat Industrial Development Corporation to decide representation dated 7.8.2006 made by petitioners after giving reasonable opportunity of hearing, within a period of two months from date of receiving copy of present order and communicate the decision to the petitioners.

4. In view of aforesaid observations and directions, present petition is disposed of without expressing any opinion on merits. Direct service is permitted. Notice discharged."

[Emphasis Supplied]

2.4 Thereafter, on 9.8.2010, respondent No. 2 informed the petitioners to appear before it within 7 days from the date of receipt of the letter. The petitioners appeared time and again before respondent No. 2 and made various representations, but no order was passed for about 10 months. Hence, this petition on various grounds mentioned in the petition has been filed by the petitioners inter alia, contending that the petitioners were ready and willing to make payment as per rescheduled of installments to be informed by GIDC, that respondents did not give an opportunity of being heard to the petitioners, and that the respondents have delayed the matter for more than 10 months even after second order passed by the Hon"ble High Court of Gujarat.

3. Learned advocate, Ms. Vidhi Bhatt for the petitioners, submitted that the petitioners wanted to take approval right from the beginning from AMC and tried to get approval which was not given simply because plot No. 4801 was not sub-divided and it was required by GIDC to apply for sub-division of said plot No. 4801 alongwith sketch plan of 4801/4. Moreover, as mentioned in the impugned order dated 1.6.2011, had approval been given by the Corporation at the relevant point of time, the alleged delay would not have arisen at all. The reason given by GIDC for rejecting the representation was that petitioner could not utilise the plot due to non-approval from AMC. According to her, delay has been caused due to lapses on the part of respondent Nos. 1 and 2. Special Civil Application No. 1124 of 1996 was filed challenging order dated 29-12-1995 by which lease agreement was terminated. In the reply filed by GIDC in 2005, it was stated that due to non-payment of dues, representation was rejected. As reflected in the order dated 8.2.2006 passed in Special Civil Application No. 1124 of 1996, the learned advocate Mr. M.B. Gandhi, for respondent Nos. 1 and 2 submitted that the said impugned order dated 29.12.1995 be treated as cancelled and the petitioners will be given an opportunity of being heard and hence, the respondents cannot pass the impugned order as the appropriate opportunity of hearing had not at all been given by GIDC. She further submitted that though ample opportunities were given to respondent No. 1, Managing Director of GIDC, to pass appropriate order after hearing, order was passed by respondent No. 2, who is the Divisional Manager and who is not a competent authority having jurisdiction to pass the order and that too without hearing the petitioners. She further submitted that when representation was rejected vide impugned order, fresh cause of action had arisen and hence, this petition was filed. She further submitted that GIDC is an instrumentality of State and it has to act in a fair, equitable and transparent manner and when the act of GIDC is malafide and capricious, the petitioner has a right to challenge the same by way of petition under Article 226. She further submitted that there was no breach of

agreement between the GIDC and the petitioner and even now, the petitioner is ready and willing to construct the plot on payment of penalty but the permission was never granted in absence of document related to sub-plot of plot No. 4801 not done by GIDC and hence, construction could not be made. She further submitted that in the impugned order, it is stated that as per the prevailing policy of the Corporation, representation was rejected but no copy of the said prevailing policy was given to petitioners nor has it been produced in this petition. The policies/circulars dated 28.8.2012, 5.11.2012 and 15.3.2013, mentioned in the letter related to offer-cum-allotment dated 7.3.2010 written by Divisional Manager i.e. respondent No. 2 to respondent No. 4 have also not been produced in this petition nor was the same ever forwarded to petitioners as the issue being sub-judice by way of present petition. According to her, when this Hon"ble Court had passed an order to hear the petitioners, then effective and fair hearing ought to have been given to petitioners by supplying copy of the policy, which was not given and hence also, the impugned action requires to be quashed. In this regard, she relied on Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, more particularly para 8, reads as under:-.

"8. The Second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, be the time it comes to Court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji:

Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanation subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

Orders are not like old wine becoming better as they grow older."

3.1 As far as challenging the order of allotment is concerned, she submitted that orders have been passed in favour of respondent Nos. 4 and 5 when the issue is pending before this Court and is sub-judice and under the circumstances allotment should not have been made to respondent Nos. 4 and 5 without permission of this Court and this has been done only to make this petition infructuous. In this connection, she relied on another judgment reported in the case of Siemens Aktiengesellschaft and S. Ltd. Vs. DMRC Ltd. and Others, , more particularly paras 26 to 28.

3.2 Lastly, she submitted that they are ready to pay the amount with penalty and to make the construction but with permission and approval from AMC-respondent

No. 3 and as such petitioners do not want to construct the plot without permission as have been done by other plot holders of plot Nos. 4801/2, 4801/3 and 4801/5.

4. Learned advocate Mr. M.B. Gandhi for respondent Nos. 1 and 2 submitted that a wrong doer cannot take benefit of his own wrong. The person has lost the possession in the year 1995 for non-compliance of conditions mentioned in Annexures "A" and "B" and having lost the possession, now his only trump-card is that the Corporation is not passing the plans because sub-division of the plot No. 4801 is not given by GIDC. Drawing my attention towards page Nos. 123 to 125 of the affidavit-in-reply, he submitted that not a single letter or request is there on the record of the AMC to show that petitioners had in fact made any effort to obtain approval of the plan for construction to be made on the plot No. 4801/4. He submitted that initially a large chunk of land was given to the GIDC and thereafter, the GIDC sub-divided the same into several sub-plots and sold it out to various parties. He also submitted that by way of amendment, the petitioners have also joined the parties to whom the allotments have been made i.e. party-respondent Nos. 4 and 5 in the petition, but no prayer has been sought for against them. He also submitted that everything has been completed since long and now the petitioners have come out with the present petition for grant of certain prayers as reflected in the prayer clause, which cannot be granted now. Mr. Gandhi further submitted that in absence of any prayer or any stay against the property, no relief may be granted to the petitioners. He read and invited attention of the Court to O. 41 R. 5 and Section 115 of the Civil Procedure Code and submitted that mere pendency of appeal does not operate as a stay of proceedings under defence and in the present petition also, no stay has been granted. Likewise, so far as Section 115(3) of the Civil Procedure Code is concerned, mere filing of revision would not operate as stay except when the suit or proceeding is stayed by the High Court. Lastly he submitted that since last more than 15 years, the petitioners herein have been delaying and avoiding to construct the shed and repercussion of the same is directly on the progress and growth of industries as well as on the persons directly involved in the same and this is nothing but loss to the public exchequer and the petitioners have also suppressed material facts. He placed reliance in the case of Sarguja Transport Service Vs. State Transport Appellate Tribunal, M.P., Gwalior and Others, and submitted that on the same cause of action, there cannot be a repeated petition, because this is a third petition and the same would not lie, because no liberty has been sought for or granted by the Court concerned. He therefore, requested to dismiss the petition.

5. The learned advocate Mr. S.P. Majmudar for respondent No. 4 invited attention of the Court to reply at page No. 128 and documents at page Nos. 135 to 142 and submitted that respondent No. 4 has paid full consideration to GIDC and they have purchased this plot i.e. 4801/4A in public auction after following due formalities. The public notice for auction was published in a Newspaper Gujarat Samachar, inviting tenders and participating the same they have purchased and

therefore, respondent No. 4 is a bonafide purchaser. As per the possession receipt at page No. 140, respondent No. 4 is in possession from 08.11.2013 and page-141 is a copy of a letter acknowledging handing over possession to respondent No. 4 and therefore, respondent No. 4 is a bonafide allottee and has started construction and substantial construction is put by respondent No. 4. He then submitted that on reading of the first prayer at para 26(A), it seems that the petitioners have not challenged respondent No. 4's allotment as well as auction notice and have also not challenged the action of corporation sanctioning plan. Therefore, said prayer is required to be rejected because the petitioner has not challenged any subsequent developments. Second prayer has already become infructuous as the plots have already been sub-divided. He then submitted that this petition is in the realm of contractual dispute as the petitioner has to show his readiness before the lower Court to lead evidence as to who is in breach and whether contract is terminated or no. and if GIDC has acted as per its policy which is not challenged then, without challenging said policy decision, it cannot be said to be bad. In this regard, he placed reliance on the decision in the case of D.S. Bachani and Others Vs. State of Gujarat and Another, , Head-Note A reads as under:-

"(A) Constitution of India, 1950-Art. 226-High Court would not interfere with policy decision of Government unless it is shown to be perverse.

[5.2] He further relied upon another decision in the case of Did Franchisees" Asso. Vs. Chief General Manager, , relevant paras 8.4 to 9.2 read as under:-

"8.4 From the facts of the case it is clear that the parties are bound by the terms of the contract and if at all there is any breach of the term of contrary the proper remedy for the petitioners is to file appropriate proceedings before the civil court for redressal of their grievances if at all there is any breach of contract.

9. In view of the aforesaid discussion, I do not find any substance in the contention the petitioners have no remedy under section 14 of the Act of 1997. Merely on that ground the petitioners cannot invoke jurisdiction of this Court under Article 226 of the Constitution of India, especially when the decision is a policy decision taken by the appropriate competent authority within its power and jurisdiction and the decision is to achieve the object of the Act.

9.1 When a competent authority constituted under the Act has taken a decision and which has been accepted by the licensee viz. the respondents, sub-licensee cannot challenge the same merely on the basis that such decision is not favourable to petitioners. The petitioners have not pointed out that the decision of revising the charges is arbitrary or against the public interest. Therefore, it is clear that the petitioners are bound by the terms and conditions imposed in the said notification and the petitioners cannot charge more than Rs. 0.90ps upto 500 metered call units per month and Rs. 1.10 for calls above 500 metered call units per month.

9.2 A perusal of the decision clearly shows that the decision is taken with a view

to attract more consumers and certainly the benefits go to such consumers at large. Apart from that the BSNL will not pay 20 paise commission to the licensee, but that will be adjusted against the rent of Rs. 100/- and overhead expenses can be adjusted from Rs. 25/-. Thus, when the expert body has taken a decision keeping in mind the consumers at large, this Court will not substitute its decision inasmuch as this Court is not sitting in appeal over the decision of the Expert Committee."

6. So far as respondent No. 3-AMC is concerned, learned advocate for H.L. Patel Associates has filed an affidavit dated 12.03.2014 of Mr. Rajesh G. Patel, Town Development Officer-in-charge. In paragraph No. 6 of said affidavit, the said official has mentioned that so far as main prayer is concerned, the issue is to be adjudicated between GIDC and the petitioners wherein AMC is not directly connected. The learned advocate, Ms. Vidhi J. Bhatt, placed reliance on paragraph Nos. 3, 4 and 5 of the said affidavit which reads as under:-.

"3. I say that as per the Development Plan of the year 2002 of Ahmedabad Urban Development Area (AUDA), Gujarat Industrial Development Corporation (GIDC) has to apply for division of plot No. 4801/4 of Gujarat Industrial Development Corporation (GIDC), Vatva. Phase-IV. Herein annexed and marked as Annexure-R1 is the copy of the relevant portion of the Development Plan of the year 2002.

4. I say that in the new Development Plan Ahmedabad Urban Development Area (AUDA) that is of the year 2013 submitted to the State Government under Section 16 of The Gujarat Town Planning and Urban Development Act, 1976 division of plots has been shown so far as plot No. 4801 is concerned. Herein annexed and marked as Annexure-R2 is copy of development plan of 2013.

5. I say that as per physical inspection of entire plot No. 4801, construction is found on plot No. 4801/1, 4801/2, 4801/3 and 4801/5. It is further stated that in Plot No. 4801/1, there is construction of over head water tank. It is further stated that as per the records, no approval has been taken by owners of plot No. 4801/2, 4801/3, 4801/5."

[Emphasis supplied]

6.1 If the above referred uncontroversial facts narrated in paragraph Nos. 2 to 2.4 as well as the reply dated 12.03.2014 of AMC are perused, any layman can come to the conclusion that there is no substance and merit in the two affidavits filed by the GIDC dated 8.9.2011 and dated 5.3.2014 as well as the submissions referred hereinabove made by learned advocates Mr. M.B. Gandhi, for respondent Nos. 1 and 2 and Mr. S.P. Majmudar, for respondent No. 4 and with little extra care would come to the conclusion that respondent Nos. 1 and 2 have not come with clean hands.

7. The petitioners herein have challenged the communication dated 01.06.2011 "Annexure-V" made by respondent No. 2 addressed to the petitioners stating

that it is the responsibility of the petitioners for obtaining approval for building plan from AMC and having not obtained approval since the year 1995, the request of the petitioners to give back the possession of the plot in question is refused by GIDC.

7.1 Referring to the additional affidavit dated 5.3.2014 of Mr. Prashant Bhatt, Divisional Manager, GIDC, the learned advocate Mr. M.B. Gandhi, for respondent Nos. 1 and 2 vehemently submitted that the said Divisional Manager has taken personal visit, prepared the maps and also taken the photographs of each of the plots to show that industries are running and he has also shown readiness to show whole file, if needed. It is pertinent to note that so far as case on hand is concerned, none has taken plea that industries are not running. As such respondent Nos. 1 and 2 want to submit that plotting was done properly and no industrial allottee had any problem but the present petitioners who were indebted for several crores, had no plan for construction and unnecessarily raised the dispute about approval of the sub-division because, by sub-division, five plots were created of plot No. 4801 and all other allottees have put-up their construction in 1993 itself when allotment was made and no one had any problem except the petitioners and as such with a view to come out of the financial losses, under one or the other pretext, the petitioners threw burden upon GIDC for approval of sub-plotting of plot No. 4801 etc., which was not the function at all of respondent Nos. 1 and 2.

7.2 Referring to the offer of plot in question dated 14.5.1991 at "Annexure-A" and also the allotment letter of the said plot dated 14.8.1991 at "Annexure-B", more particularly, Clause-9 of both the said documents, the learned advocate Mr. M.B. Gandhi for respondent Nos. 1 and 2 submitted that as per the contract also, the allotment was made on, "As is where is basis" and every responsibility was cast upon the party concerned. Then referring to advertisement dated 10.8.2011 published in Times of India, he submitted that as mentioned the base price of Rs. 4,19,24,313/- was shown in the said advertisement, and thus as the value of the land has gone high like anything when compared to the year 1991 and when the base price is fixed by the GIDC at Rs. 4,19,24,313/- and the petitioners herein realized about hike in price by passage of time as against the meager consideration of Rs. 4,97,500/-, which the petitioners were to pay in 1991 and that too by installments and considering the malafide intention of the petitioners, he requested to dismiss the petition and to award costs of the litigation.

7.3 Further explaining the circumstances which necessitated respondent No. 2 to pass the impugned order dated 1.6.2011, the learned advocate Mr. M.B. Gandhi submitted that in view of the order dated 20.7.2010 passed by this Court in Special Civil Application No. 6094 of 2010, the petitioners were requested to remain present in the office by letter dated 9.8.2010, a copy of which is at "Annexure-T", however, the petitioners have preferred to submit further representations rather than remaining present and hence, final decision was communicated vide the impugned order dated 1.6.2011.

8. Referring to the statement giving details of the amount paid to GIDC by the petitioners at page-45, it appears that upto 30.9.1993, the petitioners have paid Rs. 2,65,161/- which is also reflected in the termination order of licence agreement dated 29.12.1995 at "Annexure-k", passed by the respondent No. 2. In the letter dated 20.9.1993, at "Annexure-C" written by the petitioners addressed to respondent No. 2, it is mentioned that site construction plan is ready but due to some unavoidable circumstances and acute shortage of finance, request was made for extension of time for construction for a period of one year and further requested to issue no objection certificate for getting the approval of a plan and said no objection certificate dated 30.10.1993 appears to have been issued by respondent No. 2, the copy of which is at "Annexure-D". After the above referred letter dated 20.9.1993, the petitioners herein have addressed another letter dated 20.11.1993 at "Annexure-E" to the respondent No. 2 requesting for a sketch plan of plot No. 4801/4 of GIDC, Vatva, Ahmedabad for submission of the same to AMC alongwith proposed construction plan. After five days on 25.11.1993, the petitioners have addressed a letter to Regional Manager of GIDC in which it was declared that on inquiring with office of the AMC, the petitioners have learnt that GIDC has not applied for subdivision of plot No. 4801 and hence the petitioners have requested to kindly look into the matter for subdivision of plot No. 4801 with AMC so that it can accept the application for approval of site construction plan to be submitted by the petitioners. Thus, it appears that vide letter dated 25.11.1993, first of all written information was forwarded by the petitioners drawing attention to look into the matter and arranging to issue necessary certificate and application for sub-division so that respondent No. 3 herein can accept the application to be submitted by the petitioners for approval of site construction plan. Again vide Annexure-H letter dated 8.4.1994/11.4.1994, the petitioners have requested the Regional Director of GIDC drawing attention to the effect that the petitioners have not heard anything from GIDC regarding letters dated 20.9.1993 and 25.11.1993 referred hereinabove and also mentioned that the said conduct of Regional Director, GIDC resulted in delaying submission of site plan for approval before the AMC. On the same line again, the petitioners have drawn attention of Regional Manager, GIDC vide letters dated 5.9.1994 and 27.12.1995. The respondent Nos. 1 and 2 herein have filed two affidavits dated 8.9.2011 at page-101 and 5.3.2014 at page-123, but the above fact in form of letters alleged to have been written by the petitioners have not been denied nor has come on record that any reply has been given by the respondent Nos. 1 and 2 or they have considered the request and necessary action for sub-division of plot No. 4801 had been taken by them with the respondent No. 3-AMC herein. On the contrary, it is surprising to note that on 29.12.1995, the termination order of licence agreement on account of eviction proceedings of plot/shed at Vatva at Annexure-K had been passed by respondent No. 2 putting reliance on the delegation of powers vide order No. GIDC/ALT/POL/24 dated 3.12.1976. Further as mentioned in the said termination order Annexure-K, an amount of Rs. 2,65,161/- paid between 11.9.1991 and 30.9.1993 has been adjusted and dues of Rs. 62,747/- were directed to be paid

through cheque within 10 days, failing which action would be initiated within 10 days to recover the said dues as arrears of land revenue.

9. As referred hereinabove, the petitioners were constrained to file Special Civil Application No. 1124 of 1996 on 2.2.1996. Vide para-14(A) of the said petition, the prayer to set aside the order dated 29.12.1995 was sought as well as direction against GIDC to hand over the possession of the plot in question i.e. plot No. 4801/4 in Phase-IV at GIDC, Vatva. Vide para-14(B) of the said petition, direction was sought to give details regarding sub-division of the plot in question. In the said petition, this Court admitted the matter and granted interim relief restraining the respondents from allotting the plot in question to any one else. In the matter of 1996, an affidavit-in-reply appears to have been filed by GIDC on or about 3.10.2005, copy of which is at Annexure-M on page Nos. 63-67. Going through the said affidavit-in-reply on main points, it was contended by GIDC that petitioners have come with a case that AMC is not granting approval to this building plan without the sketch of the approval of the sub-division of the plots but it is submitted that subdivision of the plot was supplied alongwith the letter dated 14.8.1991. It is also contended that it is the contention of the petitioners that AMC is asking for sub-division but GIDC never received any letter from AMC for such sub-division. It has also contended that in the entire estate, each and every party got their plans approved from AMC without any necessity or requirement of sub-division being insisted by the AMC and therefore, under a wrong pretext and wrong cause, the petitioners, who have failed to put up the construction, are trying to get shelter that GIDC did not provide for sub-division. Lastly it was contended by the GIDC that because of the pendency of the petition and the interim relief which was granted by this Court whereby GIDC has been restrained not to allot the plot No. 4801/4 to any one else, the plot is still with the possession of GIDC and though it is a public property, it has remained idle for a long span of 15 years and therefore, requested to dismiss the petition by awarding cost of at least Rs. 50,000/- towards loss suffered by the State due to continuation of injunction.

9.1 In the rejoinder affidavit dated 18.10.2005 at Annexure-N, the petitioners have averred that GIDC has filed affidavit-in-reply nine years after admission hearing by this Court and also contended that GIDC has not produced sanction/ approval from AMC regarding sub-division of plot No. 4801. The petitioners have also averred that if the respondent GIDC had furnished the said approval from AMC regarding sub-plotting made by them, they could have obtained permission for construction.

9.2 Under the above circumstances, now it is desirable to peruse and go through the order dated 8.2.2006 passed by this Court in above referred Special Civil Application No. 1124 of 1996. In paragraph No. 2.1 of this order, the said order has already been reproduced. Referring to the same, it is clear that learned advocate Mr. Gandhi being learned advocate on behalf of respondent Nos. 1 and 2 submitted that the said impugned order (i.e. order dated 29.12.1995 at

Annexure-K page 37-38 herein) be treated as cancelled and the petitioners will be given an additional opportunity of being heard and considering the same, afresh order in accordance with law and on merit will be passed. It was further jointly submitted by learned advocates for the parties that till a fresh decision is taken, let status-quo as on 8.2.2006 be continued and accordingly the Court had directed the parties to maintain status-quo.

10. Thereafter, on 7.8.2006, again the petitioners made request vide representation at "Annexure-P" reiterating the earlier requests stating that today also petitioners had approached City Civic Centre, Ahmedabad Municipal Corporation, for approval of plan but it was informed that site construction plan can be submitted before AMC alongwith four documents mentioned therein. The relevant important portion of the said letter reproduced hereunder would clear the petitioners' stand when they requested to give the documents mentioned in it with reschedule of payment by installments.

"..... Sir, at this stage we would like to state that the main delay in construction of the building at the allotted plot is Sub-division permission, without which the site plan cannot be put before the AMC for approval. Further delay is caused due to matter was sub-judice and Hon'ble High Court has passed an order on 8.2.2006 (Copy enclosed) by which the order vide letter dated 29.12.2005 was quashed and set aside.

Sir, after passing of this letter we have also made certain communications with the TDO and copy to your office in by which also we have again reiterated to give us the copy of subdivision permission letter and also intimate an amount of installment payable with reschedule of payment so that we can proceed further in the matter please.

Sir, under the circumstances without subdivision permission of plot and in absence of approved AMC Plan the work of construction of the building was not carried out in time.

Now we request you to consider our case and give as the following documents at the earliest with reschedule of payment of the installments, so that we can re-approach to AMC for approval of the sit plan and construct the building as per revised schedule and install our plant and machinery which are already available with us.

- (1) Sub Division permission of Plot.
- (2) No Objection Certificate
- (3) Sketch plan of the land on a letter head of GIDC.
- (4) No due certificate.

Hope, you will consider our request and give as the above documents so that we can proceed further in the matter please."

10.1 In the letter at Annexure-Q (Colly) dated 19.10.2007, written by respondent No. 2 addressed to the petitioners, as referred therein, reference of letter dated 5.6.2007 is given and further mentioned that plot No. 4801 has been divided into five parts and a copy of letter written by the GIDC to AMC was also sent to the petitioners. Referring to the language mentioned in the letter dated 19.10.2007 written by GIDC addressed to the AMC at page-83, it appears that for the first time, the documents related to sub-division of plot No. 4801 mentioned therein, have been sent to AMC. From the above discussed evidence, it can easily be said that the request made by the petitioners at the initial stage vide their letter dated 25.11.1993 at Annexure-G referred above to look into the matter for sub-division of plot No. 4801 with AMC appears to have been complied with by respondent Nos. 1 and 2 vide their letter dated 19.10.2007 at page-83, that too after a long battle as discussed above. Now, prima-facie it would presume that ultimately matter between petitioners and GIDC i.e. respondent Nos. 1 and 2 has been resolved on the issue of sub-division of plot No. 4801 but that is not the fact. Referring to letter dated 11.6.2009 at Annexure-R of the petitioners addressed to respondent No. 2, the attention of the respondent No. 2 has been drawn by the petitioners on various earlier communications dated 7.8.2006, 25.7.2007, 4.8.2007, 8.4.2009, 1.6.2009 and further stated that inspite of repeated requests through reminder as well as through personal approach, the petitioners heard nothing from GIDC, regarding due amount to be paid to GIDC as well as possession of the land. It was further informed on inquiry at AMC that sub-division of plot is not done so far which is very much essential for granting approval of plan and also requested to give the petitioners the sub-division permission received from AMC for plot No. 4801/4.

10.2 Since the petitioners did not receive any reply, they have filed Special Civil Application No. 6094 of 2010 before this Court and after hearing the parties vide order dated 20.7.2010, this Court directed respondent No. 1 to consider and decide the representation dated 7.8.2006 of petitioners within a period of two months. The said order has been reproduced in para-2.2 as referred above. Referring to the said order dated 20.7.2010, it is clear that grievance was made by the petitioners to the effect that in light of the order passed by this Court in Special Civil Application No. 1124 of 1996 dated 8.2.1996 referred above in detail, a detailed representation has been made to GIDC on 7.8.2006 which remained unanswered and no response was given by GIDC and accordingly, after hearing the learned advocates for the parties, this Court has directed respondent No. 1 to decide the representation dated 7.8.2006 made by the petitioners after giving reasonable opportunity of hearing within a period of two months. It goes without saying that in light of the order dated 8.2.2006, appropriate order related to detailed representation dated 7.8.2006 afresh in accordance with law and on merits after giving an opportunity of hearing was not passed and accordingly, the direction given vide said order to the parties to maintain status-quo automatically naturally extended upto the above referred order dated 20.7.2010 and till the representation dated 7.8.2006 is decided as referred

above.

11. Now it can be seen what transpired between the petitioners and GIDC after the above referred order dated 20.7.2010 passed in Special Civil Application No. 6094 of 2010. In view of order dated 20.7.2010, GIDC has addressed a letter dated 09.8.2010 to petitioners. Annexure-T is the copy of letter dated 9.8.2010 written by Division Manager-GIDC to the petitioners who is residing at Mumbai as it appears from the said letter and copy appears to have been forwarded to General Manager-Law, GIDC, Gandhinagar. In the letter at Annexure-T, it is requested that as per order dated 20.7.2010, petitioners to contact the Divisional Manager within 7 days of receiving the said letter for execution of the order. In my view, it cannot be said that 7 days period is a reasonable opportunity given by GIDC in light of the direction given by this Court for contacting Divisional Manager, who had to rush from Mumbai to Ahmedabad for contact as referred above. After writing letters dated 18.8.2010, 13.9.2010, 28.10.2010 by the petitioners addressed to GM-Allotment Department, GIDC, Gandhinagar, 3rd reminder dated 18.12.2010 was forwarded by the petitioners to GIDC, which is reproduced hereunder and which speaks a lot about what had happened after the above referred letter dated 9.8.2010 written by Divisional

Manager to petitioners.

"Date _____

18th December, 2010

Ref No. _____

Mr. Nayan Pathakji

GM-Allotment Development

Gujarat Industrial Development Corporation Ltd. 2nd Floor, Udyog Bhavan, Block 5/2, Sector-11, Gandhinagar-17 (Gujarat)

Dear Sir

Reminder-III

Kind atten: Shri Nayan Pathak Reg: Our Application dt. 07.08.2006 for Grant of Sub-Division Permission From Ahmedabad Municipal Corporation for Plot No. 4081/4

Ref: Oral Order of Hon High Court of Gujarat dated 20.07.2010.

We would like to draw your kind attention to our various representations on the above referred subject few of them are recent dated letters viz..

1. Our Letter dated 28.10.2010
2. Our Letter dated 18.08.2010, and

3. Our Letter dated 13.09.2010

In this connection we, once again, would like to draw your kind attention to the Oral Order of Hon High Court of Gujarat dated 20.07.2010 wherein your good offices were directed to take suitable decision on the representation dated 07.08.2006 made by us. Your good offices were further directed to give sufficient opportunity of being heard to us.

We would like to draw your kind attention to your own letter dated 09.08.2010 calling upon us to meet your good offices within seven days to sort out the above issue. We are really sorry to point out here that your office has not done anything to sort out this issue even though the undersigned Owner Director has approached to your offices several times during last three months. We understand your office is least bothered for the Order of Hon High Court of Gujarat which may be viewed as Contempt of Court by The Hon High Court of Gujarat.

In view of the above, we would like to request you once again as under:-

1. To handover back the Possession of sub-division of our Plot bearing No. 4801/4, Phase-IV of which illegal possession has been taken by GIDC.
2. To get us Permission of sub-division of the aforesaid Plot from Ahmedabad Municipal Corporation since the sub-division has been done by your good offices only.
3. To waive off the small amount of interest on outstanding balance of Rs. 4,97,700/- keeping in view the huge financial losses our Company has suffered which amounts to Rs. 8-10 Crores as has been clarified in our earlier letter dated 28.10.2010.
4. To issue us your demand letter for the balance outstanding amount of Rs. 2,32,089/-(Rs. 4,97,700/- Minus Rs. 2,65,611/- being the amount already paid by us) so as to enable us to release the said amount and start construction of the Factory Building.

AS your good-selves is very well aware of the VISIONARY HON CHIEF MINISTER OF GUJARAT, SH NARENDRA MODI JI "TO FLORISH INDUSTRY IN THE STATE OF GUJARAT" and due to the delayed decision taken by your good offices, we are not in a position to begin our vision of putting the Industry in the State of Gujarat. Any further delay will certainly force us to make suitable representation to Hon Chief Minister of Gujarat explaining the whole issue.

In view of the above, we once again request you to support us with your favourable order within the shortest possible time and oblige."

11.1 Reminder dated 14.3.2011 almost on the line of the above referred letter dated 18.12.2010 is at Annexure-V (Colly). First para of the said reminder reads as under which throws light on the issue involved in this petition:-

"We are really shocked that 8 months have passed since the Order by The High Court has come and no action has been taken. Also our regular visits and reminders, there is no reply from your end and shockingly delay in decision. Request you act at the earliest and give us justice."

11.2 Thereafter, all of a sudden on 1.6.2011, the Divisional Manager had addressed a letter i.e. impugned order under challenge in this petition, which is at page-94. It is surprising to note that, after going through the same, following facts emerge, that too after two rounds of litigation in this Court and accordingly after two orders passed by this Court:-

(i) In the impugned order, reference of letter dated 13.9.2010 is only made by the Divisional Manager, and it does not mention about the above referred letters written by the petitioners and two orders passed by this Court in earlier two rounds of litigation referred above. Regarding earlier communications referred above, no clarification is forthcoming on record of this petition though affidavit-in-reply dated 8.9.2011 as well as additional affidavit dated 5.3.2014 filed by respondent Nos. 1 and 2-GIDC.

(ii) It is mentioned in first two lines of impugned order that after 14.8.1991, which is the date of allotment of plot in question i.e. plot No. 4801/4, the utilization of the same was required to be commenced within the time limit of two years i.e. upto 13.8.1993 as per norms of GIDC.

(iii) In further four lines of the impugned order, it is averred that since the petitioners could not utilize the plot in question in stipulated time limit, GIDC has resumed back the possession of the said plot in question on 31.07.1995 and issued necessary refund/recovery order dated 29.2.1995. As referred hereinabove, regarding the said order dated 29.2.1995, the learned advocate Mr. M.B. Gandhi for the respondent Nos. 1 and 2 submitted before this High Court that the said order dated 29.2.1995 shall be treated as cancelled and the petitioners will be given an additional opportunity of being heard and considering the same, a fresh order in accordance with law and on merit will be passed. From the above discussion, it is clear that till the passing of impugned order dated 1.6.2011, no opportunity has been given and that too after second order of this Court dated 20.7.2010 passed in Special Civil Application No. 6094 of 2010. At the cost of repetition, it is desirable to remind that on 8.2.2006 after treating the order dated 29.2.1995 as cancelled, the learned advocates for the parties have jointly submitted that till a fresh decision is taken, let status-quo as on 8.2.2006 be continued and accordingly on 8.2.2006, status-quo which was granted by this Court on 23.2.1996 while admitting the petition i.e. Special Civil Application No. 1124 of 1996 restraining the respondents from allotting the plot in question to any one else was directed to be continued until a fresh order in accordance with law and on merits, after giving opportunity to the petitioners be passed. It appears that such a fresh order has never been passed except the impugned order dated 1.6.2011. The learned advocate, Mr. Gandhi, could not lay his finger on any such afresh order to be passed as referred above by the respondent Nos.

1 and 2 and thus, it goes without saying that the direction of this Court qua status-quo given on 8.2.2006 (as such interim relief granted from 23.2.1996) was required to be maintained by the parties.

(iv) Now again coming to the impugned order of this petition dated 1.6.2011, in the further next two lines of the said order, it is mentioned that after the above order dated 29.12.1995, the petitioners approached Hon"ble High Court stating that the petitioners could not utilize the plot due to non-approval of building plans by AMC and as per the policy of the GIDC, it is the responsibility of the petitioners to obtain approval of building plans and utilize the plot in question within stipulated time limit of two years. It is not under dispute that the order dated 29.12.1995 was challenged by the petitioners by preferring Special Civil Application No. 1124 of 1996. The prayers sought for by the petitioners are narrated in paragraph No. 9 hereinabove. Para-14(A) of the said petition was related to setting aside order dated 29.12.1995 and for handing over possession of plot in question and in para-14(B), the petitioners have sought direction to give details regarding sub-division of the plot in question against the GIDC. Thus, it is clear that it is not correct to say that after the order dated 29.12.1995 and after challenging the same by preferring Special Civil Application No. 1124 of 1996, the petitioners had approached this Court stating that the petitioners could not utilize the plot due to non-approval of building plans by AMC. Moreover, policy of GIDC qua the responsibility for obtaining approval of building plans has never been denied by the petitioners nor at any point of time have the petitioners come out with the case that responsibility for obtaining approval of building plan is of GIDC. The short and genuine demand made by the petitioners vide letter dated 25.11.1993 was and is to apply for sub-division of plot No. 4801 with the AMC by the respondent Nos. 1 and 2 i.e. GIDC which again can only be remained in domain of the GIDC and none else. Moreover, the said request/demand has been quite often repeated by the petitioners as referred at length hereinabove. Thus, it is clear that as per policy of the AMC, the burden of discharge of obtaining approval of building plans has never been denied by the petitioners.

(v) Again coming to impugned order dated 1.6.2011, so far as last paragraph of the impugned order is concerned, it is mentioned that the possession was taken back on 31.3.1995 and at present 15 years have passed since then and hence, as per prevailing policy of the GIDC, the request for handing back possession cannot be considered. I am not repeating the same thing quite often. However, considering what has been observed in sub-para (iii) above, in my view, the entire observation and averments of impugned order appears far from truth that too made with some ulterior motive. In fact, it is clear violation of the submissions made by learned advocate, Mr. Gandhi, on 8.2.2006 after inviting order from this Court in Special Civil Application No. 1124 of 1996 as discussed hereinabove and hence, after the impugned order i.e. after 1.6.2011 also, the direction given by this Court to the parties to maintain status-quo qua the plot in question remained in force till date because, as referred hereinabove, after the

order dated 8.2.2006, appropriate order, which was required to be passed afresh in accordance with law and on merit after affording opportunity to the petitioners, has not been passed by respondent-GIDC. Thus, several other grounds are yet to be discussed, but from the above discussion, it is clear that the impugned order dated 1.6.2011 has been passed by misinterpreting the facts appeared on the record at the relevant time when two rounds of litigations were constrained to be filed by the petitioners and accordingly, I am of the view that the present petition deserves to be allowed. I am quite aware of the facts that yet this Court is supposed to deal with rest of the submissions made by the learned advocate, Mr. Gandhi for respondent Nos. 1 and 2 as well as by learned advocate, Mr. S.P. Majmudar for respondent No. 4.

12. Mr. M.B. Gandhi, learned advocate, put much stress on the fact that plotting of industries of GIDC, Vatva, where the plot in question is situated, was done properly and no industrial allottee had any problem but the present petitioners, who were indebted of Rs. 8-9.00 crores, as such had no plan for construction and unnecessarily raised the dispute about the approval of the sub-division of plot No. 4801 from AMC. As such, division of five plots were created on plot No. 4801 and all the other allottees have put up their construction in 1993 itself when allotment was made but the petitioners, with a view to come out of the financial losses under one or the other pretext, threw burden upon the GIDC for application to be forwarded for sub-division of plot No. 4801. In light of the above submissions, relevant paras of the affidavit-in-reply filed by respondent No. 3-AMC, which have been reproduced hereinabove in paragraph No. 6, are very important. It appears that respondent No. 3-AMC has filed the said affidavit on 12.3.2014 and, as discussed hereinabove, respondent Nos. 1 and 2-GIDC have filed two affidavits one dated 8.9.2011 and the second in the form of additional affidavit dated 5.3.2014. It is pertinent to note that a copy of affidavit-in-reply filed by respondent No. 3-AMC has been served to all concerned including the learned advocate, Mr. Gandhi for respondent Nos. 1 and 2. It is pertinent to note that against the affidavit dated 12.3.2014 filed by respondent No. 3-AMC, no rejoinder has been filed by respondent Nos. 1 and 2 meaning thereby, whatever the respondent No. 3-AMC has stated on oath vide affidavit-in-reply dated 12.3.2014 presumably appears to have been admitted by respondent Nos. 1 and 2. At the cost of repetition, now referring to the affidavit of respondent No. 3-AMC dated 12.3.2014 at page-118, it has been specifically averred by the Town Development Officer in charge of the AMC that as per the development plan of the year 2002 of Ahmedabad Urban Development Corporation (AUDA), the GIDC has to apply for division of plot No.4801 of GIDC, Vatva. Phase-IV. Moreover, it is further contended that in the new development plan of the AUDA of the year 2013 submitted to the State Government under Section 16 of the Gujarat Town Planning and Urban Development Act, 1976, division of plots has been shown so far as plot No. 4801 is concerned and thereafter, they have annexed the copy of the development plans of the year 2002 vide Annexure-R1 and of the year 2013 vide Annexure-R2. Referring to the

development plan of the year 2002 at Annexure-R1, the sub-division of plot No. 4801 has not been shown in it and as discussed hereinabove, the said sub-division of plot No. 4801 was sought for by the petitioners since 1993 till the filing of this petition. After filing of the reply of the AMC dated 12.3.2014 referred to hereinabove and after filing of document at Annexure-R1, which is the copy of the development plan of 2002, the sub-division of plot related to plot No. 4801 appears to have been made in the year 2013 as mentioned in the document at Annexure-R2 and thus, it is clear that what was sought for i.e. sub-division of plot No. 4801 by the petitioners on 25.11.1993, has been ultimately complied with in the year 2013 for the reasons best known to the respondent Nos. 1, 2 and 4 herein. Thus, the above discussed facts clearly strengthen the case of the petitioners by all fours and simultaneously falsify the adamant stand of the GIDC and thus GIDC i.e. respondent Nos. 1 and 2, who are as such the high ranking officials of GIDC, were totally exposed.

13. Moreover, it has been clearly and categorically stated on oath by the Taluka Development Officer of respondent No. 3-AMC in his above referred affidavit-in-reply that he has taken physical inspection of entire plot No. 4801 and has found construction on plot Nos. 4801/1, 4801/2, 4801/3 and 4801/5 and also mentioned that in plot No. 4801/1, there is a construction of over-head water tank. He has further stated that as per the records of the AMC, no approval has been taken by owners of plot Nos. 4801/2, 4801/3 and 4801/5 for construction. Considering the above fact stated on oath by the concerned official of the AMC, there appears much substance in the stand taken by the petitioners in their letter dated 25.11.1993, copy of which is at "Annexure-G" requesting respondent Nos. 1 and 2-GIDC to look into the matter and arrange to forward necessary application for sub-division of plot No. 4801 so that AMC can accept the application alongwith the site plan for approval to be submitted by the petitioners and the subsequent repeated requests on the same line as referred hereinabove. However, surprisingly, upto the year 2007, no reply against the same has been given at any point of time by the respondent Nos. 1 and 2-GIDC and it appears from the document at Annexure-R2 that the said sub-division of plot No. 4801 has been made in the development plan of 2013. In my view, this is nothing, but a sheer negligence on the part of the officials of the GIDC and that too by high ranking officials i.e. the Divisional Manager and General Manager, who are, as such, claiming that the petitioners have unnecessarily dragged the Government institution i.e. GIDC to the Court and the petition having totally misconceived, may be dismissed awarding cost of Rs. 50,000/- because the public property i.e. plot No. 4801/4 remained idle for a long span of 15 years and the same is nothing but a loss to the public exchequer. Though it is vehemently submitted by the learned advocate for respondent Nos. 1 and 2 that in the entire estate, each and every one to whom the plots have been allotted got their plans approved from AMC without any necessity or requirement of sub-division being insisted by the AMC and therefore, under wrong pretext and wrong cause, the petitioners, who have failed to put up their construction, are trying to get shelter that the

GIDC did not provide document related to sub-division of plot No. 4801. It is hereby clarified that whether all the allottees of plots in the estate had approved their plan from the AMC or not is as such not the issue before this Court, but it is the fact that the said defence of respondent Nos. 1 and 2 has been well exposed which is clearly borne out from the reply of respondent No. 3-AMC, who has categorically submitted that so far as plot Nos. 4801/2, 4801/3 and 4801/5 are concerned, for the construction found to have been made in the said plots, no approval of AMC has been taken by the owners of the said sub-plots as per the records of AMC.

14. From the above discussed facts, it is clear that demand made by the petitioners right from the beginning to give them AMC approval permitting to sub-plot the plot No. 4801, repeated by the petitioners as discussed above appears unquestionable and deserves genuine sympathy. The learned advocate, Ms. Vidhi Bhatt for the petitioners, submitted that the petitioners are law abiding citizens and hence, they did not take chance to construct the factory premises without permission being granted by the AMC as has been illegally done by rest of the subplot allottees of plot No. 4801. There appears substance and merit in her said submission. From the above discussion, it clearly appears that the petitioners were and are ready to put up the construction after getting possession and in turn approval of AMC and it further appears that as discussed hereinabove that now in light of the document at Annexure-R2 referred above, it would be easier for the petitioners as well as for the AMC to approve the site plan to be submitted by the petitioners as division of plots so far as plot No. 4801 is concerned is reflected in the said document i.e. Annexure-R2 in the development plan of 2013.

15 Thus, by summarizing the above discussion related to impugned order dated 1.6.2011, it can easily be said that, as such, vide order dated 20.7.2010, respondent No. 1 was directed to consider and decide the representation dated 7.8.2006 within two months from the date of receipt of the said order. However, the same is decided by respondent No. 2 after 11 months bypassing the said order dated 20.7.2010 of this Court and passed impugned order with some ulterior motive and though this ground has been taken, no satisfactory explanation has come on record from the other side. As discussed above, delay of more than 15 years was occurred due to fault on the part of the high ranking officials of GIDC presumably to satisfy the ego/self-admiration which is reflected from the affidavit-in-reply also, in which it is stated that except plot No. 4801/4, rest of the sub-allottees of plot No. 4801 had constructed on the plot and then, why the petitioners become an exception whose plan has not been approved by respondent No. 3-AMC. Said stand is totally false as discussed above and hence, on delay aspect, respondent Nos. 1 and 2 are solely responsible by not providing the data related to subdivision of plot No. 4801 and consequently site plan was not approved by AMC. The serious aspect is that respondent Nos. 1 and 2 are not giving any reply to the letters written at regular intervals showing willingness and readiness to pay the dues for the reasons best known to them. Under the above

circumstances, by no stretch of imagination, it can be said that the petitioners were at fault or was there any delay on the part of the petitioners and thus, reason given by respondent No. 2 that as 15 years have elapsed, possession cannot be restored is highly unjust and improper. When issue of delay, as discussed hereinabove, is considered, then, I could not restrain myself at this juncture from stating that though the learned advocate for the petitioners has made request for early hearing of this petition more particularly when respondent No. 4 has commenced construction in plot No. 4801/4A, which fact will be dealt with a little later, for initiating the hearing, this Court was forced to raise the volume with little pain while denying the request for adjournment. Therefore, considering the peculiar facts narrated above, this petition has seen the light of the day to hear the issue atleast in the third round of litigation. Now continuing with the point of impugned order dated 1.6.2011, it appears that the main issue related to subdivision of plot No. 4801 has not been touched at all by the respondent No. 2. It is also not mentioned in the impugned order as to which prevailing policy of the AMC was taken into consideration. Moreover, as far as the possession which was alleged to have been taken as back as on 31.3.1995 is concerned, as discussed above, on 8.2.2006, the said order was treated as cancelled. From the above discussion, it further appears that at no point of time, opportunity of hearing has been given to the petitioners as directed by this Court vide order dated 8.2.2006 at page-77 and thus there is no hesitation in saying that the direction given by this Court to the parties to maintain status-quo related to plot No. 4801/4 remained in force at least till the decision of impugned order dated 1.6.2011. The aspect that the parties were supposed to maintain status-quo qua plot No. 4801/4 when the issue is sub-judice will be discussed a little later. It has been submitted by the learned advocate for respondent Nos. 1 and 2 that on 30.10.1993, no objection certificate was issued stating therein that GIDC does not have any objection if AMC approves the building plans for the said plot and even though all the requirements were satisfied, fact remained that the petitioners were not capable to put up construction and therefore, on one or the other pretext, the litigation is carried on and un-utilized plot is not permitted to be sold to other entrepreneur and the Government treasury has been put to discount to a large extent and hence, the present petition is liable to be dismissed. I do not find any force in the said submission for the reasons discussed hereinabove. In my view, in fact, the expected and required co-operation and support of respondent Nos. 1 and 2, who are claiming themselves as caring Government officials worried for public property, as such, have not been received by the petitioners and hence, inspite of two rounds of litigations having undertaken before this Court, the petitioners remained at the same state when they had written letter dated 25.11.1993 requesting GIDC to look into the matter for sub-division of plot No. 4801 with the AMC and the officials of respondent Nos. 1 and 2 remained so stubborn and adamant that petitioners could not walk an inch further and their position remained as it was on 25.11.1993. Thus, it is clear that the impugned order dated 1.6.2011 is in breach and violation of the fundamental rights of the petitioners guaranteed by the

Constitution of India, to live as law abiding citizens and hence, is illegal and improper.

16. It has also been submitted by the learned advocate for respondent Nos. 1 and 2 that, in fact, the allotment of plot in question to the petitioners was on "as is where is" basis but, after the order dated 20.7.2010 passed by this Court in Special Civil Application No. 6094 of 2010, they have written letter dated 9.8.2010, a copy of which is at page-87, informing the petitioners that they should appear within 7 days of the said letter for representation and ultimately, the impugned order dated 1.6.2011 has been passed and the said decision was taken on the basis of the policy of the AMC and as such, the question of handing over of possession on payment of outstanding amount of dues of installment does not arise more particularly when possession had been taken by the Corporation before more than 15 years. In the affidavit-in-reply filed by the Assistant Manager of GIDC, Ahmedabad, dated 8.9.2011, it is mentioned that the property in question has already been put to auction and for innumerable years and decades, the petitioners stalled the hands of the GIDC because it is a public undertaking and thousands of entrepreneurs are waiting in queue for getting the land and the petitioners" is a failed industry, which had no financial capacity at the relevant time and, therefore, the possession was taken back and through public auction, the plot in question has been transferred to respondent Nos. 4 and 5.

16.1 On the above point, learned advocate, Ms. Vidhi Bhatt for the petitioners, submitted that as such the respondents have no authority in law to put the plot in question to public auction and if the respondent authorities genuinely believed that thousands of entrepreneurs are waiting in queue for getting the land and the petitioners being failed industry had no financial capacity at the relevant time and therefore, possession was taken back, then in that case, GIDC ought to have decided petitioners" representation well in time as well at least after issuance of orders of this Court and ought to have divided plot No. 4801 into five parts by constructing boundary wall and unless and until the GIDC gives no objection certificate for sub-plotting and it is approved by municipal authorities, the petitioners could not make the construction. If at all for the sake of arguments, I believe that the plot of the petitioners was on "as is where is" basis, then also, the sub-division of the plot No. 4801 was very much required. Drawing attention of the Court to further affidavit dated 9.2.2014, learned advocate for the petitioners submitted that as narrated therein during the pendency of this petition, it has come to the knowledge of the petitioners that respondent No. 1- GIDC by way of parallel process had allotted the land bearing plot No. 4801 in Phase-IV, GIDC, Vatva, which is the subject matter of this petition, to third parties i.e. respondent Nos. 4 and 5 and out of them, respondent No. 4 has started construction on the said plot. Further drawing attention of the Court in the matter between M/s. Siemens Aktiengesellschaft & S. Ltd. (supra), the Hon"ble Supreme Court has very heavily come down on the Government of Delhi by observing that while the matter is sub-judice before the Hon"ble High Court,

the Government should have not interfered with the matter by way of initiating parallel process and should have kept its hands-off the matter by letting the law to take its own course and under the circumstances, so far as the case on hand is concerned, the respondents were supposed to maintain status-quo position as per the direction dated 8.2.2006 referred hereinabove otherwise at least GIDC should have taken order from this Court if at all they were concerned with thousands of entrepreneurs waiting in queue for getting the land, but they did not do so and the action on the part of the Government officials i.e. GIDC is nothing but a calculative move to frustrate this petition and the action taken by respondent Nos. 1 and 2 hereinabove shows that it wants to make the present petition infructuous by handing over the possession of the said plot to third party more particularly, respondent No. 4. On the above aspect, learned advocate for respondent Nos. 1 and 2 simply submitted that there was no injunction against respondent Nos. 1 and 2 and as such, none can prevent them more particularly because the said plot was auctioned and the base price which was fixed was more than Rs. 4.00 Crores. Before dealing with the above aspect, the decision of the Hon''ble Supreme Court in M/s. Siemens Aktiengesellschaft & S. Ltd. (supra), and the observations made in paragraph Nos. 26 to 28 appear relevant and are directly applicable to the case on hand, which read as under:-

"26. That brings us to the question whether the Government of India was justified in appointing a Committee to test the evaluation of bids and, if so, whether this Court ought to look into the Report of the Committee. There is more than one aspect that needs to be kept in view in this regard. The first and foremost is the fact that the Committee was appointed at a stage when the matter was already pending before the High Court. Considerable time was spent by learned counsel for the parties in debating whether the constitution of the Committee by the Government itself tantamounted to interference with the course of justice, hence contempt. We do not, however, consider it necessary to pronounce upon that aspect in these proceedings especially because we have not been called upon to initiate such contempt proceedings. All that we need say is that once the Government had known that the entire issue regarding the validity of the process adopted by DMRC including the transparency and fairness of the process of evaluation of the bids was subjudice before the High Court of Delhi and later before this Court, it ought to have kept its hands off and let the law take its course. It could have doubtless placed all such material as was relevant to that question before the High Court and invited a judicial pronouncement on the subject instead of starting a parallel exercise. The Government could even approach the High Court and seek its permission to review the process of evaluation either by itself or through an expert Committee if it felt that any such process would help the Court in determining the issues falling for consideration before the Court more effectively. Nothing of that sort was, however, done. On the contrary even when the Secretary to the MoUD pointed out that the matter is subjudice and any further action in the matter could await the pronouncement of the Court, the Hon''ble Minister heading MoUD directed the constitution of the

Committee with the following terms:

"2(1) To examine if a fair, equitable and transparent tender process was followed by DMRC, as per the prescribed guidelines".

27. We have no manner of doubt that the terms of reference give a clear indication that the process initiated by the Government was a parallel process of the adjudication of the very same issue as fell for consideration before the High Court and at a later stage before this Court. We fail to appreciate how the Government could have possibly done this. Confronted with this situation Mr. Mohan Parasaran, learned Solicitor General, argued that a reference to the Committee was not meant to subvert judicial process but to only find ways and means to formulate policies and procedures for future allotment of contracts. We have no hesitation in rejecting that submission. The Reference Order extracted above speaks for itself. It nowhere states that the Committee has to look at anything beyond the process of evaluation of tenders received by DMRC. It does not even remotely suggest that the Government is concerned about the procedures that may be followed in the future or anxious to devise transparent methods by which such contract should be allotted. What is notable is that the Committee's hands were not stayed by the Government even when the High Court had pronounced upon the validity of the procedures adopted by the DMRC and the matter reached this Court. Continuance of the process of review even after the High Court had delivered its judgment amounted to subjecting the judicial pronouncement to an administrative review. There was no question of any such judicial determination or adjudication being subjected to any administrative review albeit in the name of a Committee constituted for the purpose.

28. Mr. Parasaran argued that the Committee's proceedings did not amount to sitting in appeal over the judgment of the High Court. The Committee may have not said anything adverse to view taken by the High Court but if the Committee were to find fault with the evaluation process which the High Court has held to be valid it indirectly amounted to putting a question mark on the judgment of the High Court itself. Suffice it to say what the Government ought to have stayed its hands once the matter landed in the Court. Inasmuch as the Government did nothing of this kind, it did not act properly. Beyond that we do not consider it necessary or proper to say anything at this stage."

[Emphasis Supplied]

17. Learned advocate Mr. Gandhi for respondent Nos. 1 and 2 also submitted that plot No. 4801 was divided into five parts since long and four parts had already been disposed off and plot No. 4801/4, which was allotted to the present petitioners, had been taken back by GIDC on 31.03.1995 as mentioned in the impugned order at "Annexure-V" on page-94 and necessary refund/recovery order was issued on 29.12.1995. He then submitted that there was no prohibitory order passed against GIDC, however, the said plot No. 4801/4 was

divided into two parts, one part i.e. 4801/4A was made of 997.50 Sq. Mtrs. and the second part i.e. 4801/4B was made of 1650 Sq. Mtrs. Thereafter, sub-divided plot No. 4801/4A was allotted to Shubhlaxmi Techno Cast Private Limited on 7.10.2013 by executing an agreement on 1.11.2013 and physical possession was handed over on 8.11.2013 and the said Shubhlaxmi Techno Cast Private Limited had been joined later on by the petitioners as respondent No. 4 but the petitioners have thought it fit not to amend either the prayer or the petition except amending the cause-title and hence, in absence of pleadings to that effect, this Court cannot adjudicate the said issue. In these circumstances, I have also heard Mr. S.P. Majmudar, learned advocate for respondent No. 4.

18. At this juncture, it is required to consider the submission made by learned advocate on behalf of respondent No. 4 that respondent No. 4 has purchased plot No. 4801/4A in public auction after following due formalities like publishing auction notice in a daily newspaper Gujarat Samachar, inviting tenders and participating in the same and therefore, respondent No. 4 is a bonafide purchaser.

19. In light of the above submissions, I have carefully perused the affidavit-in-reply dated 1.7.2014 filed by respondent No. 4. Though it is the specific case of respondent No. 4 that through public auction, respondent No. 4 had purchased the plot i.e. 4801/4A, in the entire affidavit-in-reply, so far as the defence related to public auction is concerned, a sentence has been stated in the affidavit-in-reply at page-132 (internal page-6 of the affidavit), which reads as under:-

"..... I say that the allotment to the answering respondent was made pursuant to the auction notice."

20. In support of the case put up by respondent No. 4 alongwith the affidavit-in-reply, respondent No. 4 has produced four documents vide Annexures-R1 to R4, which are at page Nos. 135 to 142. The document at Page Nos. 135 to 137 is the letter in form of offer-cum-allotment of plot No. 4801/4A at Vatva Industrial Estate (adjoining) dated 7.10.2013 written/given by respondent No. 2-Divisional Manager, GIDC, Ahmedabad, addressed to respondent No. 4-M/s. Shubhlaxmi Techno Cast Private Limited.

21. Now, if the said offer-cum-allotment is carefully perused, it would appear that address of respondent No. 4-M/s. Shubhlaxmi Techno Cast Private Limited is mentioned as "Plot No. 4901, Phase-IV, GIDC, Vatwa, Ahmedabad." Referring to the subject as well as initial contents of the said offer-cum-allotment, it is clear that M/s. Shubhlaxmi Techno Cast Private Limited is situated at plot No. 4901, which is adjoining to plot No. 4801/4A or situated nearby plot No. 4801/4A. Perusing the column of reference mentioned in the said offer-cum-allotment, it appears that on-line application dated 24.12.2012 for allotment of adjoining plot was forwarded by M/s. Shubhlaxmi Techno Cast Private Limited and in respect of the said application, GIDC had offered plot No. 4801/4A admeasuring 997.50 Sq. Mtrs of Vatwa Industrial Estate as per its policies/circulars dated 28.8.2012, 5.11.2012 and 15.3.2013 with further conditions mentioned therein. On a bare

perusal of the said offer-cum-allotment, it can be clearly seen that the said policies/circulars alleged to have been issued after the impugned order dated 1.6.2011, are not forthcoming on record. The document at Annexure-R2 at page-122 is a copy of the development plan of 2013 i.e. a part plan of the second revised draft development plan of AUDA submitted to State Government under Section 16 of the Gujarat Town Planning and Urban Development Act, 1976 produced by respondent No. 3-AMC alongwith its affidavit-in-reply referred hereinabove. As referred hereinabove, referring to the said document at Annexure-R2, it appears that plot No. 4901, which belongs to M/s. Shubhlaxmi Techno Cast Private Limited i.e. respondent No. 4 herein, is situated on the road side and after leaving plot Nos. 4802 and 4801/5 on the western side of the said plot No. 4901, plot No. 4801/4 is situated on the front side of the said parallel road. In short, it can be said that plot No. 4801/4A is adjoining to plot No. 4901. In the offer-cum-allotment letter, conditions for allotment of adjoining plot are mentioned in clause-B, which read as under:-

"B. Conditions applicable in case of allotment of Adjoining Plot:

* You shall submit undertake on Rs. 100/- Stamp Paper duly Notarized to submit following details:

a. No Due Certificate of i) AO GIDC, Ahmedabad, ii) DEE Vatwa & iii) NDC of Vatwa Industrial Association for the Plot No. 4901 @ GIDC VATWA.

c. The plot is allotted on is where is basis so you are not entitled to get any relief or reimbursement, as well as for any type of encroachment in the plot.

d. "Transfer" of the existing or land allotted present plot will not be considered till utilization of Five years from the date of Allotment of adjoining plot is achieved.

e. You shall have to utilize the plot within one year from the date of allotment failure to that, separate proceedings of non-utilization will be undertaken and adjoining plot will be resumed back by the Corporation.

f. GIDC will not provide any additional infrastructure facilities for plot No. 4801/4/A.

g. Plot No. 4801/4/A is allotted only for expansion of existing industry.

h. The allottee must remove the violative construction observed in any of its existing plot.

i. The allottee must not apply for time limit extension for utilization of plot allotted on adjoining basis."

21.1 So far as the above conditions are concerned, respondent No. 4 should undertake the same on a Stamp Paper of Rs. 100/- duly notarized and in turn GIDC should have followed the procedure which is applicable in case of allotment of adjoining plot. Rest of the documents produced by respondent No. 4 is related to payment made by respondent No. 4 in light of the allotment of adjoining plot

i.e. 4801/4A and possession receipt etc.

22. Learned advocate for respondent No. 4 produced a copy of public notice published by GIDC, Ahmedabad, pertaining to different plots put forth for public auction wherein plot No. 4801/4 was at Sr. No. 18. It appears from the same that public auction was held at 12:00 noon on 30.08.2011. It is not the case of the respondents that the said public auction was adjourned on 30.08.2011 for any unavoidable circumstances meaning thereby, it can be presumed that public auction was held on 30.08.2011. In light of this, if the above referred offer-cum-allotment letter is perused, on-line application was forwarded by M/s. Shubhlaxmi Techno Cast Private Limited on 24.12.2012 i.e. after more than one year after the above referred public auction was held. Considering the application of respondent No. 4 for allotment of adjoining plot, it can be safely presumed that though respondent No. 4 might have taken part in the public auction held on 30.08.2011, the plot No. 4801/4A does not appear to have been put forth in the said public notice because plot No. 4801/4 was sub-divided into plot Nos. 4801/4A and 4801/4B after public notice because in the notice of public auction, plot No. 4801/4 has been shown and sub-plotting has not been mentioned. In short, when respondent No. 4 had purchased the said plot either through public auction held on 30.8.2011 or through on-line application dated 24.12.2012, respondent No. 4 was quite aware of the fact that Plot No. 4801/4 admittedly remained vacant since last 20 years only because of the dispute between the allottee and GIDC and inspite of having knowledge of the said fact, respondent No. 4 being an adjoining holder of plot No. 4901, purchased the said plot No. 4801/4A. Under the circumstances, in my view, it cannot be said that respondent No. 4 is a bonafide purchaser/allottee for value without notice. Thus, it appears that respondent No. 4 as well as respondent Nos. 1 and 2 are not coming with clean hands and have suppressed material facts to the effect as to whether they have purchased the said plot through public auction or are they holders of adjoining property or not. Thus, there appears calculative move on the part of high ranking officials of GIDC i.e. respondent Nos. 1 and 2 in collusion with respondent No. 4 to help each other for the reasons best known to them and that too bypassing third round of litigation in form of present Special Civil Application No. 10536 of 2011 pending before this Court to become infructuous.

23. The learned advocate for respondent No. 4 further submitted that after purchasing the plot No. 4801/4A and approval of necessary plans, respondent No. 4 commenced the construction on the said plot and 80-90% construction has been completed and thereby huge amount has been expended by respondent No. 4. I am of firm opinion that when respondent No. 4 had purchased the said plot No. 4801/4A, it being adjoining plot with open eyes and full knowledge regarding the dispute between petitioners and respondent Nos. 1 and 2 since last 20 years, they should thank themselves and should be ready to face the consequences that would be arising as the impugned order dated 1.6.2011, deserves to be set aside, as discussed hereinabove.

24. Mr. Majmudar, learned advocate for respondent No. 4, submitted that the prayer sought by the petitioners in para-26(B) has now become infructuous because the plot in question i.e. 4801/4 has already been sub-divided and in turn allotted to respondent No. 4 and accordingly, transferred to third party and for which no further relief has been sought by the petitioners. Moreover, the dispute between the petitioners and GIDC is related to contractual dispute involving highly disputed issues, the same could not be resolved without leading evidence and for which, the petitioners should approach the Civil Court which can decide the said disputed issue by leading necessary evidence and writ Court ordinarily would not enter into the civil dispute. I do not find any substance in the said submissions made by learned advocate for respondent No. 4 for the reasons discussed at length hereinabove and also for the reason that impugned order dated 1.6.2011 deserves to be set aside. Moreover, the petition being pending and the issue involved in the petition being sub-judice, respondent Nos. 1 and 2 as well as respondent Nos. 4 and 5 in collusion with each other had entered into a calculative risk. Their said action is nothing but malafide, malicious and perverse for which, petitioners are not at all required to lead any evidence before the Civil Court for resolving the alleged highly disputed issue but naturally respondent Nos. 4 and 5 can take the shelter of Civil Court against GIDC, for damages to be incurred after construction or for return of the money paid by them after purchasing the adjoining plot No. 4801/4A.

25. Mr. Gandhi, learned advocate for respondent Nos. 1 and 2, submitted that so far as plot No. 4801/4B is concerned, the same was allotted to respondent No. 5-M/s. Maxwell Industries and after allotment of the said plot, as per the conditions, the said industry was required to deposit certain amount and as the amount was not deposited, allotment of respondent No. 5 has been cancelled. Thereafter, respondent No. 5 has requested for revival of the offer related to plot No. 4801/4B and the same is under consideration before the higher authorities. It is required to be noted that as this Court has come to conclusion that for the reasons discussed hereinabove, the impugned order dated 1.6.2011 deserves to be set aside and as a result respondent Nos. 1 and 2 now would have to hand over clear and vacant possession of plot No. 4801/4, respondent Nos. 1 and 2 are now not required to take trouble for consideration of request made by respondent No. 5 for revival of the offer related to plot No. 4801/4B. Thus, respondent Nos. 1 and 2 are required to be directed not to think for revival of the offer related to plot No. 4801/4B but should start thinking about removal of sub-plotting made by them vide sub-plot Nos. 4801/4A and 4801/4B of sub-plot No. 4801/4, so that peaceful, clear and vacant possession of the entire sub-plot No. 4801/4 can be handed over to the petitioners as the impugned order dated 1.6.2011 deserves to be set aside. From the above discussion, it is clear that it is not correct to say that except the present petitioners, all have put up their legal construction and started their factories. Learned advocates for the respondents submitted that though the petitioners have joined respondent Nos. 4 and 5, they have not amended the petition nor have they made any such prayer and

therefore, this Court cannot pass any order against respondent Nos. 4 and 5. Learned advocate for the petitioners submitted that when any change or transfer is made by any Government authorities or by any one during the pendency of a petition and more particularly when issue is sub-judice before a competent Court, it is well settled legal position that while dealing with the writ petition, the Court concerned is empowered to put the said malafide action ante on finding that the impugned order is illegal and bad in law and in that case, normal consequences would definitely follow and this Court should take all the genuine sympathetic care of the petitioners, who wanted to do the work in accordance with law. It is a hard reality that always much financial strength and courage is required to fight for a legal case as it appears from the above discussed peculiar facts of the present case. With a view not to burden more on the record, I am avoiding discussion of the citations on which the learned advocates for the respondents have placed reliance as the same are not applicable, because, as discussed above, a calculative move has been carried out by respondent Nos. 1 and 2 with the sole intention of making the present petition infructuous and in the said malafide process, the calculative risk has been taken by respondent Nos. 4 and 5 and the said actions of respondents require to be deprecated.

26. GIDC being an instrumentality of the State should not be deprived to get more financial help, considering the activities to be carried out by them for the welfare of the society, but the above conduct of respondent Nos. 1 and 2 GIDC forces this Court to pass an order for not giving directions to the petitioners to pay any interest on the remaining amount to be calculated and to be paid by them towards purchase of plot No. 4801/4, which was allotted to them. However, in view of the statement made by learned advocate, Ms. Vidhi Bhatt for the petitioners that the petitioners are ready to pay interest as may be charged by GIDC, I thought it fit to give a direction to the petitioners to pay interest @ 9% per annum on the dues to be calculated by respondent Nos. 1 and 2, in full at a time without seeking any installment.

27. So far as the documents produced by respondent No. 4 at Annexures R/1 to R/4 on pages 135 to 142 are concerned, the same have existed during the pendency of this petition and that too with the calculative move and risk made by respondent Nos. 1 and 2 with respondent No. 4 and hence, the same is being declared as void ab initio so far as this petition is concerned and under the circumstances, respondent No. 4 is hereby directed to remove the construction of subplot No. 4801/4A, if at all made, as submitted by its learned advocate during the course of submissions and clear and vacant possession of the said plot be handed over to respondent Nos. 1 and 2 so as to enable respondent Nos. 1 and 2 to comply with the directions given by this Court in this judgment for handing over peaceful, clear and vacant possession of plot No. 4801/4 to the petitioners. Respondent Nos. 1 and 2 are further directed not to consider the request made by respondent No. 5 for revival of the offer related to sub-plot No. 4801/4B.

28. Under the above discussed circumstances, this petition is hereby allowed and

order passed by respondent No. 2-GIDC dated 1st June, 2011 (Annexure-V) is hereby set aside. Considering the peculiar facts narrated hereinabove, respondent Nos. 1 and 2 are directed to restore possession of plot bearing No. 4801/4 in Phase-IV, GIDC, Vatva, Ahmedabad, at the earliest, by removing sub-plotting made by them being sub-plot Nos. 4801/4A and 4801/4B of 4801/4 and thereafter hand over peaceful, clear and vacant possession of entire sub plot No. 4801/4 to the petitioners herein on depositing rest of the dues to be calculated by the respondent Nos. 1 and 2 and to be paid by the petitioners by charging interest @ 9% per annum on the said amount. It appears from the copy of Development Plan of 2013 at Annexure-R2 at page No. 122 that sub-division of Plot No. 4801 has already been done and that too with AMC and therefore, no further order requires to be passed so far as prayer Para No. 26(B) of this petition is concerned. However, respondent Nos. 1 and 2 shall extend full support and cooperation relating to sub-division of Plot No. 4801, if necessity arises.

28.1 Considering the above referred conduct of the high ranking officials making the petitioners to suffer a lot for no fault of theirs, respondent Nos. 1 and 2 are hereby directed to pay amount of Rs. 50,000/- towards costs of this litigation to the petitioners. Rule is made absolute to the aforesaid extent.

Further order:

After pronouncement, Mr. Chinmay M. Gandhi, learned advocate for respondent Nos. 1 and 2, requested to stay implementation and operation of this judgment and order for a period of eight weeks, which was strongly opposed by Ms. Vidhi J. Bhatt, learned advocate for the petitioners.

Considering the fact that no specific direction, fixing respondent Nos. 1 and 2 in a time frame, has been given, the request made by Mr. Gandhi is rejected.