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**IN THE COURT OF 2nd ADDITIONAL DISTRICT JUDGE OF NAVSARI
AT NAVSARI**

Regular Civil Appeal No.01/2025

Exh. 20

**FIRST APPEAL UNDER SECTION 96 READ WITH ORDER 41 OF THE
CODE OF CIVIL PROCEDURE 1908**

[1] Vinod Sadashiv Mohite,
Age : 46 yrs., Occ. Business,

[2] Manishaben Vinodbhai Mohite,
Age : 38 yrs., Occ. Household,

Both are Resi. At Plot No.105-B, Laxminagar-1,
Vijalpore, Tal.Jalalpore, Dist.Navsari.

... ... **Appellants**
(Orig. Defendants)

Versus

Ashaben Budhaji Mohite w/o. Mahesh Vaman Baviskar,
Age : 52 yrs., Occ. Household,
Resi. At Sambhajinagar, Vijalpore,
Tal. Jalalpore, Dist. Navsari.

... ... **Respondent**
(Orig. Plaintiff)

:- APPEARANCE :-

Ld. Adv., Mr. J.R.Joshi, for the Appellants
Ld. Adv., Mr. P.M.Vatvecha, for the Respondent

:- JUDGMENT :-

- (1) The present appeal has been preferred by the appellants against the judgment and decree passed by the Ld. Additional Civil Judge, Navsari, dated 29.02.2024, in Regular Civil Suit No.79/2022, whereby, the suit filed by the plaintiff-respondent for declaration with other reliefs, is allowed.
- (2) Upon presentment of appeal, notice have been duly served upon the respondent. For brevity, as the appellants of the present appeal are the defendants and the respondent of the present appeal is the plaintiff and hence they shall be referred to as per their original status of the suit, hereinafter.
- (3) **The factual matrix involved in the present case are as under :-**
 - (3.1) The plaintiff has preferred suit before the Ld. Additional Civil Judge, Navsari, dated 29.02.2024, vide Regular Civil Suit No.79/2022, for declaration, permanent injunction and recovery of possession of the suit property against defendants.
 - (3.2) It is the case of the plaintiff that, the plaintiff resides at the address mentioned in the petition. Defendant No. 1 is the plaintiff's cousin (son of her uncle), and Defendant No. 2 is his wife. The defendants own a house at Vijalpor, along with plots and shops, from which they earn rental income. The plaintiff owns property located at Laxminagar-1, Vijalpor. The plaintiff legally purchased this property on 17.08.1988 via Sale Deed No. 3423/88, by paying the full and proper consideration. She also constructed a house on this property. During the COVID-19 lockdown, the defendants forcibly broke the

lock and illegally entered the plaintiff's property, which is described as follows:

(3.3) Description of the Property :-

The property is located in the non-agricultural of Block/Survey No. 25 (Old), now Block/Survey No. 1472 (New), situated in Mouje : Vijalpore, Taluka : Jalalpore, District : Navsari. Among the plots laid out there, the plaintiff owns Plot No. 105-B, with the following dimensions:

- North-South Width: 14 feet
- East-West Length: 40 feet
- Total Area: 560 sq. ft. (approx. 52.02 sq. m.)

A residential house has been constructed on this plot. The property is registered under Municipal House No. 2946/0 in Ward No. 6 of the Navsari Vijalpor Nagar Palika.

Boundaries:

- East: 15-foot-wide road
- West: Property of Plot No. 131
- North: Property of Plot No. 105
- South: Private owned property

(3.4) The plaintiff is a widowed woman. She resides with her parents and had locked the property mentioned in Para-2 of the petition. She and her family used to visit the property regularly for maintenance and inspection. During the COVID-19 lockdown, the defendants broke the lock and illegally occupied the house. Upon learning of this, the plaintiff requested the defendants to vacate the house, but they refused and threatened her. On 21.02.2021 at around 7:00 PM, the plaintiff and her brother Rajesh visited the property to ask

the defendants to vacate. At that time, the defendants verbally abused the plaintiff and her brother with obscene and offensive language. They threatened, saying: *"You won't get this house back. Do what you can."* Defendant No. 1 pushed the plaintiff out of the house. Defendant No. 2 pulled the plaintiff by her hair. Her brother Rajesh protected her from further harm. They also publicly humiliated the plaintiff, stating: *"If you come back again, we'll break your limbs. We won't let you leave alive."* The plaintiff, terrified for her safety, left with her brother. Despite repeated requests, the defendants have refused to vacate the house or return possession of the plaintiff's property. Therefore, the plaintiff filed a written complaint with the DSP, Navsari on 23.02.2021. Even so, the defendants continue to occupy the property and are attempting to usurp it. The plaintiff is not allowed access to her own property. It is her only residence. If the defendants succeed in taking it, the plaintiff would be left homeless, facing severe hardship and distress, and her ownership rights would be seriously harmed. The disputed property belongs to the plaintiff. The defendants have no legal right or interest in it. It is necessary to officially declare this fact. The court should order the defendants to hand over peaceful and vacant possession of the property to the plaintiff. If they fail to comply, the court should enforce possession through legal means. Furthermore, the defendants should be restrained from:

- Obstructing the plaintiff's access, use, or enjoyment of her property,
- Alienating, renting, sub-letting, or transferring possession in any form to anyone else,
- Or otherwise interfering with the plaintiff's rights.

If such an order is passed, the defendants will suffer no harm whatsoever. However, if such an order is not granted, the plaintiff will suffer irreparable loss and damage, which cannot be compensated in monetary terms. To obtain an injunction, the plaintiff's case meets the requirement of *prima facie* merit, and the balance of convenience also lies in favor of the plaintiff. Therefore, the defendants themselves, their agents, or their servants should be restrained from:

- Interfering in any way with the plaintiff's ownership rights and interests in the disputed property,
- Obstructing or infringing upon the plaintiff's right to peaceful enjoyment of her property,
- Usurping or unlawfully occupying the plaintiff's property or any part of it,
- Causing or inflicting damage to the plaintiff's property,
- And from obstructing or preventing the plaintiff's access, use, or possession of the property in any manner.

Accordingly, the plaintiff is compelled to file the present suit seeking:

- A permanent (or perpetual) injunction,
- A declaration of her ownership of the property described in Paragraph 2, and
- An order directing the defendants to hand over possession of the said property to the plaintiff.

- (4) The summons of the suit has been served upon the defendants. Defendants appeared through their Ld. Counsel.

(5) On perusal of Ld.Trial Court record, it appears that, defendants sought multiple adjournments for filing their written statement. These requests were duly granted by the Ld. Trial Court from time to time. However, despite being afforded ample and reasonable opportunity, the defendants failed to submit their written reply within the prescribed period. Accordingly, Ld. Trial Court has passed an order under below Exh.14 by closing the right to file written statement of defendants. Thereafter, as per Exh.5, the learned advocate for the plaintiff moved an application praying that injunction application vide Exh.5 be heard and decided along with the main suit. Upon consideration of the said request, the Ld. Trial Court allowed the application, ordering that injunction application Exh.5 be heard conjointly with the main suit.

(6) From the contents of the plaint and from the contrary pleading of the parties, following issues were framed by then learned Additional Civil Judge, Navsari vide Exh.18:-

- (1) *Whether the plaintiff proves that they have purchased suit property (105B of new survey no 1472 old survey no 25 situated at Vijalpor Ta. Jalalpor Dist. Navsari) by registered Sale Deed no 3423/1988 ? **Determined in affirmative.***
- (2) *Whether the plaintiff proves that the during COVID-19 Lock Down the defendants have illegally entered into the suit property by breaking lock ? **Determined in affirmative.***
- (3) *Whether the plaintiff proves that she had filed complaint to DSP Navsari since the defendants have not vacated the suit property ? **Determined in affirmative.***
- (4) *Whether the Plaintiff is entitled to get relief as prayed for ? **Determined in affirmative.***

(5) *What order and decree? As per final order.*

(7)(A) The plaintiff to prove his case before the Ld. Trial Court has produced following oral evidence :-

<u>Sr.No.</u>	<u>Particulars</u>	<u>Exh.</u>
1	Affidavit of Plaintiff-Ashaben Budhaji Mohite	21
2	Affidavit of Dwarkaben Ashokbhai Ahir	27
3	Deposition of witness Rajesh Budhaji Mohite	28
4	Deposition of witness Bhupeshbhai Maganbhai Tandel	31
5	Deposition of witness Rahulbhai Shankarbhai	34

(B) The plaintiff has produced following documentary evidences :-

<u>Sr.No.</u>	<u>Particulars</u>	<u>Exh.</u>
1	Village form no.7/12 of plaintiff's property	23
2	Village form no.6 record of right of plaintiff's property	24
3	Copy of complaint given by plaintiff	25
4	Copy of assessment sheet	32
5	Certified copy of tax receipt of Vijalpore Nagar Palika	33
6	Certified copy of sale deed no. N.S.R. 3423/1988	35

(8) After afforded sufficient opportunities for oral as well as documentary evidence to the defendants, the right to file evidence of defendants has been closed by the Ld. Trial Court under order below Exh.37 on 05.10.2023.

(9) While answering points for determination no.1 to 4 in affirmative, Ld. Trial Court allowed the suit of the plaintiff.

- (10) Being aggrieved and dissatisfied with the said judgment and decree passed by the Ld. Trial Court in RCS No.79/2022 dated 29.02.2024, the present appeal has been preferred by the appellants/defendants on various grounds.
- (11) In the present appeal, Ld. Adv. Mr.J.R.Joshi for the appellants/defendants has filed written argument at **Exh.16**, wherein, he submits that, in this suit, original defendants, without having submitted any kind of written statements or arguments, have had all their rights of defense closed, and the case has been decided. However, they were never informed about this in any written or verbal form by either their advocate or the court, and no notice was ever served to them. The judgment and decree appear to have been passed by closing all their rights without their knowledge therefore to quash and set aside the judgment of Ld. Trial Court. In view of all these circumstances, taking into consideration the provisions of Section 144 of Code of Civil Procedure, the judgment and order passed by the Ld. Trial Court be set aside. He further submits that, in reality, the appellants, and the father of the respondent are closely related — appellant's father and the respondent's father were real (blood-related) brothers. The respondent's father was managing the family affairs at that time. The suit property was purchased by appellant's father, but based on the request of the respondent's father, the document was executed solely in the name of the respondent in the year 1988. After the plot was purchased in 1988, some construction was carried out by the defendants' father, and since then, the defendants, along with their father and family, have been continuously in possession and enjoying the property without any interference,

obstruction, or resistance. Thus, the continuous possession and enjoyment of the property by them, the defendants, for more than 30 years clearly establishes their rightful claim and proves that the plaintiff's claim is false. Therefore, he prayed that to reopen and restore all the rights of the defendants which were closed in the original suit, and to remand the matter for fresh trial and allow the present appeal.

- (12) Ld. Adv. for the respondent Mr.P.M.Vatvecha has argued that we have decided owner of the suit property by the trial court. According to the order passed by trial court the possession of the suit property was handed over to the plaintiff. Ld. Trial Court has also passed an order rejecting injunction and costs. Defendant has prayed in this appeal for re-trial but not prayed for possession and also not prayed to reject order of costs. Then after plaintiff has filed application and asked for injunction and possession of suit property, the defendant's application was rejected by this court and Hon'ble High Court has also dismissed Revision Application filed by the defendant. Defendant was duly served in trial court suit proceedings and he was represented by his learned advocate. But his learned advocate did not remain present during the trial hence Ld. Trial Court has passed an order. After eight months of passing an order by trial court, plaintiff had filed an execution petition. Defendant was served the process of execution petition and not initiated any action. Bailiff has served notice for handing over possession to the defendant. Then after defendant has filed an appeal after 11 months of prescribed limitation. Defendant blames to his advocate but at the time of receiving process of execution petition defendant was aware about the order passed by trial court.

Name of the defendant's father is not mentioned in registered sale deed. Defendant was entered into suit property by breaking lock hence police complaint was also filed but since this is a civil dispute, plaintiff has filed civil suit. He further submits that, after considering the oral as well as documentary evidence, Ld. Trial Court has passed an order and decreed the plaintiff's suit. Thereafter, trial court order also executed hence this court cannot set aside said order. Plaintiff has got possession of the suit property after adopting due process of law. Trial Court has not committed any illegality.

- (13) From the facts and submissions made by the Ld. Adv. for the parties, following Points for Determination are arisen for adjudication of this appeal.

-: POINTS FOR DETERMINATION :-

- [1] Whether the Learned Trial Court, Navsari has committed grave error of law and facts in passing the judgment and decree in Special Civil Suit No.79/2022 on dated 29.02.2024 ?
- [2] What order?
- (14) My answer to the aforesaid points are as under :
- (1) In Negative.
- (2) As per final order.

-: Reasons and Appreciation of Evidence :-

Point No.1 & 2 :-

- (15) Pursuant to the arguments advanced by the Ld. Advocates for the parties, before exercising the jurisdiction by this Court under Order 41 of Code of Civil Procedure (C.P.C.), it would be just and proper to

refer decision of our own Hon'ble High Court in the case of **Manjulaben Chandrakant Doshi Vs. Punjabhai Polabhai Bharwad**, reported in 2006(2) G.L.H. Page 143, in which the Hon'ble High Court has held as under :

".... The Appellate Court is the final Court so far as the finding of fact is concerned. In that view of the matter, very important duty is assigned to the Appellate Court while deciding the regular appeal. In various matters, this Court has noticed that the Learned Fast Track Judges, while observing that the powers of the Appellate Courts are very limited and unless the Trial Court has committed any error of law, the order of the Trial Court is not required to be disturbed, where the Trial Court has used its discretion properly. As pointed out earlier, the Appellate Court can reach to its own conclusions independently by going through the record of the case. The Appellate Court had got very wide powers as per Order-41 of the C.P.C. The Appellate Court is required to consider the entire record and the evidence independently on its own merits. The first Appellate Court is required to analyze the evidence on record minutely and it is bound to record its finding of fact appropriately after considering the evidence – oral as well as documentary, which is available on record. The Appellate Court, therefore, should bear in mind the distinction between a regular appeal such as the one with which we are concerned in the present case and an appeal, which is preferred against an interlocutory under Order-43 of the C.P.C. The scope of appeal under Order-43 as well as the scope of a regular appeal is required to be kept in mind. While deciding the regular appeal the scope of Order-43 cannot be taken into consideration as the scope of both the aforesaid proceedings are entirely different. Unless the Appellate Court is aware of the distinction between the appeals filed under Order-43 of C.P.C. and the one filed under Section 96 of the C.P.C. or under Section 29 of the Bombay Rent Act, the Appellate Court is bound to commit a mistake of treating the regular appeal on par with an appeal filed under Order-43 of the Civil Procedure Code."

- (16) The Hon'ble Supreme Court has also culled out the principles which are required to be kept in mind while deciding Regular Civil

Appeals, in the case of H. Siddiqui (Dead) by LRs Vs. A. Ramalingam, (2011) 4 SCC 240. The Hon'ble Supreme Court has held as under :

“that the provisions of Order XLI Rule 31 of the Code provide guidelines for the appellate court as to how the court has to proceed and decide the case. The provisions should be read in such a way as to require that the various particulars mentioned therein should be taken into consideration. Thus, it must be evident from the judgment of the appellate court that the court has properly appreciated the facts/evidence, applied its mind and decided the case considering the material on record. It would amount to substantial compliance with the said provisions if the appellate court's judgment is based on an independent assessment of the relevant evidence on all important aspects of the matter and the findings of the appellate court are well founded and quite convincing. It is mandatory for the appellate court to independently assess the evidence of the parties and consider the relevant points which arise for adjudication and the bearing of the evidence on those points. Being the final court of fact, the first appellate court must not record mere general expression of concurrence with the trial court judgment rather it must give reasons for its decision on each point independently to that of the trial court. Thus, the entire evidence must be considered and discussed in detail. Such exercise should be done after formulating the points for consideration in terms of the said provisions and the court must proceed in adherence to the requirements of the said statutory provisions.”

- (17) Therefore, in view of the settled proposition of law, this Appellate Court has evaluated and appreciated all the facts and evidences available on record of the original suit bearing Regular Civil Suit No.79/2022 in this appeal.
- (18) To avoid repetition of the appreciation of evidence and factual aspects of the case, the Issue No.1 & 2 are discussed together conjointly for the sake of convenience and brevity.
- (19) A Civil Appeal can be remanded to the trial court for recording of evidence under certain specific circumstances. The power of remand

is governed by O.41 R.23, 23(A), 24 and 25 of C.P.C. O.41.R.23 provides that if the suit was decided only on preliminary point and the decree is reversed in appeal, the appellate court may remand the case for a decision on all issues. O.41.R.23(A) provides that if the Trial Court has disposed off the suit on merits but, the appellate court finds that a re-trial is necessary in the interest of justice i.e.improper framing of issues, lack of proper evidence if trial court fail to consider material evidence or ignore the evidence of witnesses, the matter can be remanded. O.41R.25 provides that if some material issue were not framed or decided by trial court then, it can be sent back to trial court for recording of evidence after framing proper issues.If there are procedural lapses during trial i.e. parties were not given opportunities to lead evidence, case can be remanded to ensure their trial.

(20) In view of above provision R.23 of O.41 would apply only in those cases wherein the decree/judgment passed by the Ld.Trial Court has been reversed in appeal. Unless the findings are reversed or set aside, on the preliminary point, this Court cannot remand the case merely on the asking of the appellant . Before ordering remand under rule 23 of Order 41, this Court must reverse the decision of Ld.Trial Court.

(21) In the case of Bechan Pandey V/s.Dulhin Jankidevi, reported in (1976) 2 SCC 286, the Hon'ble Apex Court has stated that to remand the suit to the Ld.Trial Court, would necessarily have the effect of keeping alive the strip between the parties and prolonging long drone litigation by another round of legal battle in the trial court and thereafter, in appeal. The Appellate Court should, therefore, be loath to order remand which would have the effect of condemning

the subsiding generation of families to spent major part of their lives in protracted litigation. Our Hon'ble Apex Court and other Hon'ble High Courts time and again reiterated that Appellate Court should not ordinarily remand the case under O.41 R.23 because such orders leads to unnecessary delays and cause prejudice to the parties. The ambit and scope of power of remand under R.23, 23(A) of O.41 is very limited. In the case of Vallabhbhai Kanjibhai Thakkar V/s. Taraben Kantilal Shah, (1996) 2 GLR 68 Hon'ble High Court has held that remand should be ordered in exceptional circumstances and in rarest of rare case and by recording cogent reasons, where the Court is satisfied that re-trial is necessary failing which miscarriage of justice would result.

- (22) It is necessary to note here that the defendant filed this appeal on 03.01.2025. At that time, the defendant also submitted an application at Exh.5 seeking a stay on the order of the learned trial court, which was rejected by my learned predecessor on 10.01.2025. It was further noted that, on 04.01.2025, in execution of the trial court's order, the suit property had already been handed over to the plaintiff. Therefore, the relief as prayed for could not be granted. Thereafter, the defendant challenged the order below Exh.5 of this court before the Hon'ble Gujarat High Court in Special Civil Application No. 2605/2025, which was later withdrawn by the defendant.
- (23) The defendant has filed an application for getting interim injunction vide Exh.7 on 06.01.2025 and that application has also rejected on merits and learned predecessor judge has noted that,

the learned trial court has executed the decree in accordance with provisions of law.

- (24) Having regard to the submission made by respective parties, it appears that, the plaintiff has filed suit for declaration, permanent injunction and recovery of possession. The plaintiff has stated in his plaint that, the disputed property is non-agricultural land of Block/Survey No.25 (Old), now Block/Survey No.1472 (New), situated in Mouje : Vijalpore, Taluka : Jalalpore, District : Navsari was legally purchased by paying consideration through a registered sale deed no.3423/88 dated 17.08.1988, and construction has been carried out on it. During the COVID-19 lockdown, the defendants broke the lock and entered the property. The plaintiff has given oral evidence in support of his claim under Exh.21, and witnesses have also presented evidence supporting the plaintiff's claim under Exh.27 and 28. However, the evidence presented by the plaintiff has not been cross-examined by the defendants. Furthermore, in support of his claim, the plaintiff has also presented documentary evidence along with oral evidence. Under Exh.23, a certified copy of Village Form No.7/12 has been submitted, which relates to the disputed property and shows the plaintiff's name as the possessor and owner of the property. Under Exh.24, the plaintiff has submitted a copy of the Village Form No. 6 – record of right, in which, as per Entry No.6488, the plaintiff's name has been recorded in the record of register on the basis of the sale deed. The plaintiff has produced certified copy of sale deed no. N.S.R. 3423/1988 at Exh.35 which supports the claim that the plaintiff is the owner of the disputed property by having paid the consideration in the registered sale deed. In support of plaintiff, the witness Rahulbhai Shankarbhai has

examined at Exh.34 who is the Clerk, Sub-Registrar Office, Jalalpore and he supports the registration of sale deed produced at Exh.35, sale deed is of disputed property, wherein mentioned NA Permission of disputed property. The plaintiff has further produced copy of assessment sheet at Exh.32 and tax receipt at Exh.33, in this regard, in support of the plaintiff witness Bhupeshbhai Maganbhai Tandel has examined at Exh.31 who is the Clerk of Tax Department, Vijalpore Nagar Palika and who has supported the documentary evidence of Exh.32. It clearly indicates that the construction was carried out with the intention of residing in the disputed property. Thus, the plaintiff has submitted sufficient and satisfactory evidence regarding ownership, possession, and enjoyment of the disputed property, and there appears to be no reason to disbelieve it. Considering the judgment of the learned trial court, it has rightly interpreted the documentary and oral evidence submitted by the plaintiff, and held that the sale deed, being 30 years old, is admissible under Section 90 of the Evidence Act. Thus, it does not appear that the learned trial court has made any error in the appreciation of evidence.

- (25) The main argument of the defendant in this matter is that, they were not given sufficient opportunity to present their case before the learned trial court, and therefore, the matter should be remanded to allow them to present their evidence. As discussed earlier, considering the relevant provisions of law, if this Court finds that the party was not given an opportunity to present their evidence in the trial court, then, in accordance with the principles of natural justice, the case can be remanded. To determine whether the defendant had an opportunity to present evidence in the trial

court, this Court finds it necessary to consider the order related to the defendant's application at Exh.7. While allowing the defendant's Exh.7 application, this Court passed an order considering the proceedings in Regular Civil Suit No.79/2022 and Regular Execution No.14/2024. In its order, the Court noted that the plaintiff had filed Regular Civil Suit No.79/2022 on 13.09.2022. Defendants No. 1 and 2 were served notice of the suit on 12.10.2022. Subsequently, on 03.11.2022, 15.11.2022, and 24.11.2022, were sought adjournments by the defendants to file their written statement, which were granted. However, on 15.12.2022, the learned trial court rejected the adjournment application and closed the right of the defendant to file their written statement. Thereafter, on 11.04.2023, the learned trial court framed issues. On 06.06.2023 and 15.06.2023, the learned advocate for the defendant was present in court. On 15.06.2023, the plaintiff submitted her chief examination and on 05.07.2023 the defendant's right to cross-examine was closed. Then on 22.08.2023 the witness of plaintiff was examined and plaintiff filed closing pursis and as per the Rojkam, suit was kept for evidence of defendant on 20.09.2023. On 20.09.2023, learned advocate for the defendant was remained present but not given any application. Then, on 01.11.2023 the right to file written argument of defendant was closed by the learned trial court. On 27.02.2023, learned trial court has declared the judgment in this suit. Therefore, the contention that the defendant was not given an opportunity to produce evidence in support of their case does not appear to be valid. Considering the circumstances, there appears to be no reasonable ground to remand this case. Therefore, the finding of the court below allowing the

claim of the plaintiff cannot be found to be fault with and does not warrant any interference.

(26) It further appears that Ld.Trial Court has not decreed the plaintiff's suit merely on the ground that, defendant has not filed his W.S. and, he has not cross-examined the plaintiff. It appears that Ld.Trial Court has independently evaluated the evidence of plaintiff and come to the conclusion that plaintiffs are the owners of the suit properties and they are in possession of suit properties. It is general principle in civil law that, the party is bound by the acts and omission of his counsel. In this case, Ld.Adv. for the defendant was given ample opportunities in every stage of suit proceedings. Hence, principle of nature justice was duly followed in this case. There is no material on record for reversal of Ld.Trial Court judgment

(27) In view of the above discussion, I am of the view that the impugned judgment and decree passed by the Ld. Trial Court in RCS No.79/2022 dated 29.02.2024 does not need any intervention, modification or reversal and same was passed judiciously and thereby does not make any error or mistake of law and fact and hence I answer Issue No.1 "In Negative" and for Issue No.2, I pass the following final order.

∴ ORDER ∴

1. The present appeal filed by the appellants/plaintiffs is hereby **dismissed**.
2. The judgment and decree passed by the Ld. Additional Civil Judge, Navsari dated 29.02.2024 in Regular Civil Suit No.79/2022 is hereby **confirmed**.
3. The appellant shall bear cost of present appeal.

4. Decree to be drawn accordingly.

→ *R & P along with the copy of this judgment, be sent to the concerned trial court.*

Signed and pronounced in the open Court today on 03rd day of September, 2025 at Navsari.

Date : 03.09.2025

Place: Navsari.

[Chinmay Ghanshyambhai Mehta]

2nd Additional District Judge,
Navsari.

UID. No.GJ 00534

// ARK //