
**Order below Exh.1
in Regular Civil Suit No. 1 of 2024**

- [1] The plaintiff has filed the present suit for the relief stated therein in para-18. At the time of admission of the suit, the suit was adjourned for the preliminary hearing on the locus of the plaintiff to file the suit for issuing summons to the defendants.
- [2] Heard Ld. Advocate for the plaintiff. This suit does not appear to be worth issue summons to the defendants for the following reasons;-

The plaintiff has filed the suit for the relief merely of declaration holding that the plaintiff has the interest in the right, share and interest in the suit land as described in para-2 of the plaint. The plaintiff has relied his right, share and interest on the basis of the documents produced at mark 3/1, 3/2 and 3/3. Mark 3/2 is the agreement to sale which is undisputedly of the year 1995 more particularly, dated 27-06-1995, wherein the second party no.1 to 7 herein the defendant no.20 to 25 had claimed to had executed the agreement to sale. Subsequent to this agreement to sale, the plaintiffs' claim that, the said defendant no.20 to 25 herein had executed notarized supplementary agreement whereof the plaintiffs' claim that, he was put in possession. Mark 3/3 is an affidavit in support of the so-called

documents in the form of indemnity affidavit executed before the notary public Mr. C.B. Gori. It is to be noted that, out of three so-called documents, the document xerox mark 3/2 is the agreement to sale without possession agreement in respect of the land bearing old Survey No.330/1/2 admeasuring 3-46-01 Hector-Are-Sq. Mtrs. wherein it is clearly stated the terms and conditions. The another so-called documents mark 3/1 and 3/3 are the supplementary agreement and affidavit of same date in support of the document 3/2. These two documents mark 3/1 and 3/3 are before the notary. The stamp mark of notary Shri C.B. Gori does not bear his registration number, nor bears his term period of notaryship. Thus, the right, share and interest in any form claimed by the plaintiff is on the basis of the agreement to sale of the year 1995. Today, we are in 2024. That means the documents upon which any right,share and interest claimed on the basis of aforesaid agreement to sale is after almost about 30 years. The present suit is merely for the declaration and injunction. The so-called agreement to sale is registered before the office of Sub-Registrar wherein the plaintiff had merely contracted with the defendant no.20 to 25 for sale of the land. However, the supplementary agreement mark 3/1 and 3/3 upon which the plaintiff claims to be in possession was not before the Sub-Registrar. The agreement to sale with possession needs

registration and also the requisite stamp duty needs to be paid. Unless and until such stamp duties is paid, any such document cannot be read in evidence for claiming any right, share or interest in respect of any claim in the immovable property. Otherwise also, any such document which is without a stamp duty needs to be impounded. The plaintiff claims the possession over the suit property on the basis of unregistered, merely a notary agreement which also does not inspire any satisfaction *prima-facie* for claiming the possession over the suit land. The plaintiff on one hand claims the possession is not aware about the resurvey and renumbering of the suit lands. The plaintiff therefore, after a slumber in the after 1995, in the year 2023 awaken and made representation/application under RTI claiming the location of the lands and other details. Thus, the correspondence of the plaintiff under RTI placed on record the mark 3/8 to 3/12 *prima-facie* gives impression that the plaintiff was not in possession and not having any documents or information. Otherwise also, mere agreement to sale which is not cared to be performed for almost 30 years, does not give any locus-standi for the plaintiff to file this suit because the suit itself is not tenable and clearly suffers under the provisions of Order 7 Rule 11 of Code of Civil Procedure, 1908 on the clear ground of barred by law of limitation. Therefore, the plaintiff has clearly no

cause of action to file this suit. The plaintiff is, otherwise, a person appears to be non-agriculturist and having entered into so-called agreement to sale mark 3/2 is also barred by law under Section 63 of the Gujarat Land Revenue Code and such agreement whatsoever cannot be performed and that too, after about 30 years. The plaintiff merely on the basis of agreement to sale and without paying the Court Fees Stamp so required and without the title of ownership cannot maintain any suit against the DILR and the revenue authorities. Therefore, the plaintiff herein has no cause of action in the suit to file the suit against the DILR.

[3] Thus, the suit of the plaintiff for the reasons as stated herein-above is clearly barred by law of limitation, and also suffers from the ground of no cause of action. Even provisions of Order 2 Rule 2 of CPC provides that, when the plaintiff has claimed mere declaration and has not claimed any consequential relief, no such relief in the suit can be granted and no such suit is maintainable and tenable before the Court.

[4] The Hon'ble Apex Court and the Hon'ble High Court of Gujarat in series of decisions has supported rejection of the frivolous and deadwood litigation. Institution of the any such suit and issuance of the summons to the defendants will give birth to the frivolous litigation which will ultimately in no sense likely to yield any

justice to the plaintiff. The plaintiff is as such a dormant litigant, who need not to be assisted for the cause of justice in the present suit and therefore, this Court finds that, this is a fit case for rejection of the plaint before issuing the summons to the defendants and hence, the following order;-

:- O R D E R :-

- (1) Acting under Order 7 Rule 11(a),(d) of the Code of Civil Procedure, 1908, the plaint of the suit is hereby rejected being barred by law of limitation and also for the reasons of *"no cause of action."*
- (2) The plaintiff to bear his own cost.
- (3) Decree be drawn accordingly.

Pronounced and dictated in the open Court today on this 22nd day of March, 2024.

Date: 22.03.2024

Place: Sanand

Navnit

(K.P. Pachode)

Additional Senior Civil Judge,
Sanand, Ahmedabad (Rural)
Code No.GJ00930.