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**IN THE COURT OF
PRINCIPAL DISTRICT JUDGE
AHMEDABAD (RURAL) @ AHMEDABAD**

Civil Misc. Application No. 15 of 2026

APPLICANTS

1. Heirs of Deceased Karimkhanji Joravarkhanji Talukdar
- 1/1 Mashudkhanji Karimkhanji Talukdar
- 1/2 Munafkhanji Karimkhanji Talukdar
Both Age: Adult,
R/o Joravar bungalow, Opp.Malav Talav,
Dholka.
- 1/3 Heirs of daughter of Deceased Hafizabegam Karimkhan Talukdar
- 1/3/1 Anwarhusenji Malek
Age: Adult,
R/o 17, Nanjipark society, Kabrastan Chowdki, Nadiad.
- 1/3/2 Bilkishbanu Gulamhusen Malek
Age: 47 yrs,
R/o Ibqal colony, Opp. Madina Masjid, Anand.
- 1/3/3 Baitulbanu Imrankhan Pathan
Age: Adult,
R/o 452, Saiyedwada, Delhi Chakla, Ahmedabad.
- 1/3/4 Malik Jakirhusen Anvarhusen
Age: 44 yrs,
R/o 17, Nanjipark society, Kabrastan Chowdki, Nadiad.
- 1/4 Rukhsanabegam D/o Karimkhanji Talukdar and
Wife of Iftikar Sheikh
Age : Adult,
R/o 25, Kamalpark, Ankleshwar, Bharuch.
- 1/5 Zahedabegam D/o Karimkhanji Talukdar and wife of
Nasirhusen Siddiqui

Age: Adult,
R/o 35, Shobhnagar Society, Manisha Chokdi, Vadodara.

VERSUS

OPPONENTS

Heirs of deceased Ashrafali Mahamadali Saiyad
and Mumtazbibi Ashrafali Saiyad
1/1 Sayrabanu D/o Ashrafali Saiyad and wife of Salimbhai
1/2 Liyakatali Ashrafali Saiyad
1/3 Shahenajbanu D/o Ashrafali Saiyad and W/o Ismailbhai
1/4 Altafhusen Ashrafali Saiyad
1/5 Mustakali Ashrafali Saiyad
All Age: Adult, R/o Pakhali Chowk, Dholka

APPEARANCE:

Ld. Advocate for the applicants Mr. R.N. Kikani.
Ld. Advocate for the Opponents Mr. S.S. Dave.

JUDGMENT

1. The applicants have filed this application u/s 24 and Sec.151 of CPC seeking transfer of RCS Nos.237/1994 and 238/1994 in other Court.

1.1 Ld Advocate Mr. R.N.Kikani on behalf of the applicants submits that 2 suits bearing RCS Nos.237/1994 and RCS No. 238/1998 are filed by the parties against each other pertaining to joint and undivided property of deceased Karimkhanji Joravarkhanji and Ahmedabalikhanji. The parties in both the suits and subject matter are one and the same and therefore, to transfer both the suits in any other Court, the present application is filed.

1.2 It is stated that both the suits are pending before the Court of Ld. Principle Senior Civil Judge, Dholka. Both the suits are of the year 1994 and Hon'ble High Court of Gujarat has expedited

trial of both the suits since 2017. It is stated that there are various litigations in nature of criminal and civil amongst the parties and all the cases in pursuant to the order passed by Hon'ble High Court are ordered to be tried together. The cases between the parties are normally kept on the same date more particularly RCS No.237/1994 and RCS No.238/1994. In pursuant to the order of expedite by Hon'ble High Court of Gujarat the plaintiffs/applicants in RCS No.237/1994 have completed their evidence and is pending since long time on the evidence of defendants. Whereas in RCS 238/1994, the applicants have given their evidence of chief examination on 28/11/2023 and from the said date till today, for almost 3 years, the plaintiffs/respondents herein have not completed cross examination and they are taking adjournment by changing Advocates or other reasons.

1.3 It is stated that on 17/1/2026 in which the applicants are plaintiff (RCS No.237/1994), the cross examination of defendants witness (Exh.464) was going on and at that time respondents' Advocate Mr. Samir Dave raised objection stating that defendant could not remain present in the Court as he is witness. The said party was having right, interest in the suit property and to give proper information to his Advocate his presence was necessary in the Court during the cross examination, however Ld. Trial Court without considering their submission has asked the said party to go out of the Court room and thereby they are deprived of their constitutional right. As the applicants wanted to challenge the said order an application was given to adjourn the said proceedings to challenge the said order before the Higher Court, which was allowed and time was granted upto 23/1/2026. The applicants have challenged the said

order before Hon'ble High Court of Gujarat by filing SCA No.907/2026 and the same is kept on 23/01/2026. Passing of this order by Ld. Trial Court gave cause of apprehension that the Ld. Trial Court is having bias and they will not get justice if the said two cases are tried before the said Court.

1.4 It is stated that as the parties / applicants were apprehending that they will not get fair trial or justice application been Exh.540 was filed on the same day before the concerned Court mentioning that they do not have trust on the said Court and wants to get the case transferred to other Court and therefore, they had asked for time to collect necessary documents and file application, which was also allowed by Ld. Trial Court and the matter was adjourned on 23/01/2026.

1.5 It is submitted that the applicants wants to get the above referred 2 civil suits transferred to other Court as the Ld. Trial Court is having prejudice and not considering their submissions and therefore, it is seriously apprehended that if the case is proceeded before the concerned Court, it would cause severe damage and the same is also justified from the record of the case. It is stated that the Ld. Trial Court is accommodating respondents' Advocate Mr. Samirbhai Dave and though applicants' Advocate is continuously remaining present as in both the cases evidence is recorded, but they are not accommodated and dates are given as per the convenience of respondents' Advocate.

1.6 It is submitted that in RCS No.237/1994, the Ld. Trial Court had kept the matter on 12/01/2026 though the said date

was not convenient to applicants' Ld. Advocate. Though, applicant's Ld. Advocate had informed that he would make it convenient for cross examination, however, Ld. Trial Court had called out their Advocate in the morning -first session by stating that in RCS No.237/1994 defendants' witness are present. The applicants had made request that their Ld. Advocate would come in second sitting for cross examination and other case i.e. RCS 238/1994 is also listed today in which applicant's cross examination is going on in the said case and the Advocate of defendants is present and he can start cross examination in the said case which would also save the Court's time, however defendants' Advocate Mr. Samir Dave took illegal and convenient objections, therefore, applicants had given Exh.465 application to the Court stating that defendants' witness after giving his chief examination is given time as per their convenience and whereas their Ld. Advocate who has assured to take cross examination in 2nd session is not considered and objection was raised before the Court. The Ld. Court ignoring the submission imposed cost of Rs.1,000/-. Even thereafter, the applicants had made submission before the Court that they will pay the amount of cost and their Advocate would come in 2nd sitting for cross examination but the same was not heard by the Ld. Trial Court and matter was adjourned. A request was made by the applicants to keep it on the next date i.e. on 13/01/2026, which was objected by Ld. Advocate Mr. Samir Dave and as per say of the said Advocate, the matter was kept as per the convenience of that Advocate on 17/01/2026. The applicants had also requested the Court to grant date of 16/01/2026 so that their Advocate can remain present to proceed with the case, but the same was not considered by Ld. Trial Court.

1.7 It is stated that in RCS No.238/1994 in which applicants side cross examination was going on by respondents and in the said case the plaintiffs/respondents herein are continuously changing their Advocate and they are repeating one and same question and when this fact is objected and put to the notice of Ld. Trial Court, the Court conveys that they will have to answer the question even if they are asked previously and repeating the same question delays the cross examination. Ld. Trial Court is not preventing the plaintiffs/ respondents' Advocate in putting repeated question.

1.8 It is stated that during the cross examination of applicants' party, one application seeking permission to produce documents (Exh.529) was filed for production of documentary list (Exh.531) which was objected by applicants' side and thereafter Ld. Trial Court had rejected the said application. Even thereafter, the respondents' Ld. Advocate is putting question on the documents which is denied by the Ld. Trial Court and even this thing has happened on 08/01/2026 and when question pertaining to documents were put, the same was objected and Ld. Trial Court had declined to put question which were already refused by the Trial Court for its production. It is stated that on 12/01/2026, in absence of applicants' Advocate, the respondents had once again had asked the very same question pertaining to those documents which were declined to be produced on the record of the case and it was very well within the knowledge of the Ld. Trial Court but as Ld. Advocate of the applicants was not present, the respondents' Advocate was permitted to put such question and this further substantiate their apprehensions that the Ld. Trial Court is having serious prejudice against the applicants. It is

further submitted that Mustakali Ashrafali Saiyed who is one of the plaintiffs, is an Advocate by profession. Though he is party in the above referred 2 suits, he is not holding a status of Advocate so far as these 2 suits are concerned, but he sits in the first row along with respondents Advocate Mr. Samir Dave during trial Court's proceedings and Ld. Trial Court permit him to avail that special status, though he is party to the suits and is one of the accused in Criminal Case No.722/2002. In Criminal Case Mustakali A. Saiyed is not remaining present regularly and is accommodated by the Ld. Trial Court by granting exemption. He do not remain present in criminal proceedings but, suddenly appears in suit proceedings which are kept in afternoon session. Ld. Trial Court in Criminal Case No.724/2002 in which applicants ladies members are shown as accused who comes in the Court from morning are forced to remain present from morning though witness is not available and they are asked to remain present for the entire day and this gives serious cause of bias and prejudice in the mind of the applicants.

1.9 It is stated that in Criminal Case No.722/2002 one application Exh.6 dated 20/02/2010 is given u/s 216 of CRPC to add section 326, 120(b) of IPC and though the same is heard on number of occasions, the same is not decided till date. One application Exh.137 is also filed in said Criminal Case No. 722/2002 in which muddamal weapon are not found and to take action against responsible person, no order has been passed in the said case. In RCS No.19/2007 an application Exh.61 for carrying out fencing of the suit property in pursuant to the 22/10/2008 order passed by Ld. Trial Court is put to the notice of the Ld. Trial Court for compliance of the said order, but Mustakali A.

Saiyed, one of the plaintiffs, who do not have any locus-standi in the said suit, misinterpret and misguide the order of Hon'ble High Court of Gujarat and seeks adjournment and Ld. Trial Court keeps on granting adjournment. On the above stated grounds it is submitted that applicants are seriously apprehending prejudice and bias mind of the Ld. Trial Court and they are sure that they will not get justice from the Ld. Trial Court where both suits are going on, it is accordingly urged to transfer both cases to other Court.

2. The Respondents have appeared through their Ld. Advocate Mr. Samir Dave. The respondents have filed their objection vide Exh.6. Ld. Advocate Mr. Samir Dave vehemently submits that all the contentions raised in the transfer application are false and are raised by twisting and misinterpreting the facts. Ld. Advocate Mr. Rajubhai Kikani is Senior Advocate practicing since many years at Dholka Bar Association. He is having art to put the Court under pressure by filing false and frivolous application and this transfer application is one of the ground / tactics adopted by Senior Advocate as to how the Court proceedings are diverted or delayed under the guise of transfer application along with creating pressure on the Ld. Trial Court's mind, the transfer application is filed before District Court and thereby succeed in getting what is done to be intended.

2.1 It is stated that he as an Advocate has appeared in the later part of year 2025 and is regularly remaining present during the trial of both the Civil Suit No.237/1994 and 238/1994. He is practicing at Ahmedabad but has never sought time and has regularly remained present before the Ld. Trial Court. It is stated

that Ld. Senior Advocate appearing for the applicants could not digest the fact that both the suits proceedings have started immediately after appearance of him and it is normal practice that Ld. Senior Advocate who appears on behalf of the applicants come to Dholka Court on Tuesday, Wednesday and Friday could not have imagine that case would proceed on day to day basis. The fact about Trial Court has imposed cost of Rs.1000/- though he was to take cross examination in second session is a clear attempt of misguiding and twisting the fact. As a matter of fact, it was Monday and the Court had asked both the Ld. Advocates to remain present at 11.00 hours after taking consent of both the parties. It was specifically and mutually agreed that in RCS No. 237/1994 defendants' witness Jayantibhai Naranbhai Gohil cross examination will be taken by Ld. Advocate Mr. Rajubhai Kikani and in the second session i.e. from 3.00 p.m. the cross examination of Maskudkhan @ Masudkhan Karimkhan would be taken by him. As per the mutual agreement between both the Ld. Advocates the respondents Advocate had remained present in the morning first session, however, till 11.30 Ld. Senior Advocate Rajubhai Kikani did not remain present. Court had made several calls of the Ld. Senior Advocate and thereafter Masudkhan and his son Jaidkhan Talukdar, who is Advocate, presented themselves and informed that their Advocate could not remain present and therefore, application was given. Accordingly, a request was made by respondents' Advocate that witness Jayantibhi Naranbhai Gohil is aged person and was asked to remain present at 11.00 a.m., he has remained present as per the agreed date and time after seeking consent of Shri Rajubhai Kikani, the same is not proper and it is thereafter the cost of

Rs.1000/- came to be imposed on application made by the applicants in RCS No.237/1994.

2.2 It is stated that it is this order which hurt one of the Senior Most Advocate who appears on behalf of the applicants and thereafter attempts have been started for delaying trial and not proceedings before the same Court where the case was going on since long time. The very fact that application dated 17/01/2026 leveling vexatious allegations that they do not intended to proceed with trial before the same Judge is nothing but an attempt to pressurize the Judge who is proceeding with the trial as per the direction of Hon'ble High Court of Gujarat and the said case is of the year 1994.

2.3 It is submitted that the present transfer application is nothing but clever tactics to twist the facts and create pressure on the Trial Court and then get the things / trial as per his own way, which cannot be permitted and the same is required to be dealt with law accordingly. It is submitted that during recording of evidence in RCS No.237/1994 when client of Mr. Kikani was asked to remain outside the Court during cross examination, he had immediately stopped cross examination of respondents' witness Jayantibhai Nranbhai Gohil and had started making allegations and therefore, the Court had asked the witlessness to get-down from the witness box.

2.4 It is stated that the applicants had filed SCA No.907/2026 seeking permission to permit the applicant to remain present in the Court. The matter was kept on 30/01/2026 and as the respondents Advocate who had to appear before the Hon'ble High Court of Gujarat in the same matter filed by the applicants,

he could not remain present and on the said date an application came to be filed in RCS No.237/1994 making allegations and stating that the present transfer application CMA No.15/2026 is filed which is kept on 11/02/2026.

2.5 It is stated that the respondents herein had filed an application before the Trial Court stating that as transfer application is filed, the case may be kept after decision of transfer application and thereafter, they will ask the witness to remain present in the Court giving his evidence. The said application of the opponents was not only rejected but as witness was not present and was at the stage of cross-examination, the Ld. Trial Court has discarded entire evidence of said witness Jayantibhai Naranbhai Gohil. Thereafter also the respondents' Advocate made an application on 31/01/2026 stating that witness Jayantibhai Naranbhai Gohil has gone to Rameshwaram and would be returning on 10/02/2026. However, the same was not considered by Ld. Trial Court and entire evidence came to be discarded stating that evidence of witness Jayantibhai Naranbhai Gohil is discarded by the Court by passing order. This would clearly show that the Ld. Trial Court is not bias or prejudice to either of the parties but has pass appropriate and legal order, though it was not in their favour, but they respected the order without making any allegation of bias or prejudice. The Trial Court has also accommodate the Advocate appears on behalf of the applicants. He submits that it is known to all the parties that the suit is very much old and there are directions of expeditious trial and instead of cooperating the Trial Court an attempt is made to delay / divert the trial as it does not go as per the wish of the applicants or their Ld. Advocate. It is not that only applicants

are been visited with cost but the opponents are also visited with cost and even their rights are closed by discarding evidence of the witness, who did not remain present for evidence. It is stated that this tactics by twisting the facts and making misrepresentation cannot be ground for transferring the case. It is accordingly urged to reject the application with cost.

2.6 Ld. Advocate appearing on behalf of the opponents have also stated that in para 9 of his reply that as per the request of the applicants to transfer both the civil suits, if both the suits are transferred from Dholka to Ahmedabad they have no objection, but if the same is transferred to other Court in Dholka, then by adopting the same tactics the Court would be pressurized and therefore, they have no objection if both the suits are transferred to Ahmedabad. It is submitted that transfer application being Cr.M.A No.291/2019 filed earlier by the applicants was also rejected by order dated 17/05/2019 by this Court. It is stated that on earlier occasion also an application was made against earlier Ld. Pri. Sr. Civil Judge Mr. I.M. Sardar which would reveal the conduct of the applicants who are habitual in making such type of application to pressurize the Court.

3. Heard respective parties at extensive length on transfer application. Before advertng to the grounds mentioned in the transfer application and countered by the opponents side against the transfer application it would be relevant to note that the suit for which the transfer application is prayed for are of the year 1994 i.e. Regular Civil Suit No.237 of 1994 and Regular Civil Suit No.238 of 1994. Both the suits are now listed under the category of targeted case and critically old cases more than 30

years. It is also stated during the course of arguments before the Court that there are direction of the Hon'ble High Court of Gujarat for expeditious trial of both these suits. Some of the parties are also advocates from respective side.

3.1 The applicants have sought transfer mainly contending that they or their Ld. Advocate are not being accommodated and opponents and their Ld. Advocate are accommodated as per convenience. The trial court keeps on adjourning matter in which his client's cross-examination by opposite party is going on since three years. One of the opposite party namely Mustakali Ashrafali Saiyed is Advocate who is also party to the civil proceeding as well as criminal proceedings going between the parties and he though being a party in civil matter and accused in criminal matter sits on the first bench, which is reserved for the advocates to conduct the case / trial. The accused's family members in criminal case which includes lady family members are asked to remain present at 11 hrs in the morning and are made to sit upto 5.30 hrs in the evening though no witness from the prosecution / opponents – opposite parties are present. The trial court in Criminal Case No.722/2002 in which an application to amend the charge was filed is not decided for many years and the weapons in the said case are misplaced. It is also alleged that in another Regular Civil Suit No.19/2007 wherein, Exh.61 order is passed in favour of applicants side, the opponent party amongst whom one his Advocate by profession namely Mustakali Saiyed has misinterpreted order of higher court and the said person has no relevance with the said case and thereby, Exh.61 order is not complied by the trial court. It is also alleged that though it is informed to the Court that their Ld. Advocate

would cross-examine the witness in second half, they are not accommodated by the trial court and cost is imposed and dates which are not suitable to their Ld. Advocate is intentionally given by the Court. It is also stated in the application that the Ld. Advocate Mr. Samir Dave appearing for opposite party is having family relations with the Learned Trial Court Judge and all these circumstances raises apprehension in the mind of applicants that they will not get justice from the concerned Learned Trial Court Judge and therefore, case be transferred.

4. On the other hand, it is the say of the opponents side and their Ld. Advocate with Ld. Senior Advocate Mr.R.N.Kikani who is appearing before the learned trial court, that applicants want date and time as per their wish and if the same is not accepted by the learned trial court, various tactics including filing false, concocted and twisted facts narrating applications are being filed to pressurize the learned trial court and in turn wants the trial should proceed as per their convenience. He has specifically denied the fact that opponents have any sort of family relations with the Learned Trial Court Judge and these allegation is a false fact. It is stated that the trial of both the suits are going on since long time before the learned trial court and at no point of time there was any apprehension of bias / prejudice and all of a sudden such issues are being raised as the learned trial court in pursuant to the direction of the Hon'ble High Court of expeditious trial of these cases and also having fixed the case after seeking convenience of both the parties and their Ld. Advocates, the same was not abide and therefore, the learned trial court had imposed cost of Rs.1,000/- and this has hurt the ego of Ld. Advocate and thereafter, the present application has

been filed. An application is filed on record before the learned trial court making vexatious allegations and stating before the Court that they want to get the cases transferred from that Court which is nothing but a clear pressurizing tactic which should not be a ground to transfer the case. It is submitted that the allegation of favourism is also misconceived and false fact as Learned Trial Court Judge has recently discarded the entire evidence of the witness whose examination-in-chief was completed and on failure to remain present before the Court as agreed, an order discarding the entire evidence of witness - Jayantibhai Narandas Gohil was passed by the Court. He submits that if any order is passed against any party then that itself is no ground of prejudice / bias against the Court and though harsh order of discarding evidence is passed, his party has not made any allegations.

5. Having considered the submissions of the respective parties and going through the record of the application it appears to the Court that the learned trial court has considered the direction of the Hon'ble High Court of expeditious trial and both the suits being critically old cases is putting the cases with short dates which seems to be not favourable as per the convenience of the parties. The record and proceedings placed would reveal that though there are directions for expeditious trial and the cases being listed as targeted cases and 30 year old cases, the learned trial court has extended convenience as far as possible to the parties. I have also considered the allegations of biasness, as cost came to be imposed by the trial court on the applicants side and at the same time also taken note of the fact that the learned trial court has also discarded the evidence of the opponents side who

did not remained present for cross-examination though it was fixed with the consent of the parties before the learned trial court and therefore, this Court finds that the learned trial court has passed some harsh orders on both the parties on their failure to remain present before the Court as agreed amongst the parties, which cannot be considered as any sort of bias / prejudice in favour of any particular party. One of the allegation is with regard to Ld. Advocate appearing on behalf of opponent side is having family relations with the Learned Trial Court Judge to which the same is specifically denied by the Ld. Advocate Mr.Samir Dave even before this Court. On inquiring from the Ld. Advocate as to on what basis his party / clients are stating with regard to family relations, there was no specific base on which the said contention of family relations has been narrated in the application before the learned trial court. It also emerges from the rival contention from the respective parties that the dispute between the parties is long standing, there are civil as well as criminal litigations and some of the parties from both the sides are advocates. I do not find any just and proper reason to arrive at a conclusion of biasness or prejudice by the Learned Trial Court Judge against the applicants side. Passing of favourable order or unacceptable order cannot be a ground to justify apprehension of biasness / prejudice in the mind for a particular party.

6. Having considered the entire record of this application, I do not find that there are justifiable reasons to transfer the case and thus, the application deserves to be rejected.

6.1 While rejecting this transfer application, it is required to note that all the parties and their Ld. Advocates should extend

their full cooperation in disposal of these civil suits which are pending since more than 30 years and all litigants should respect the directions of the Hon'ble High Court of Gujarat for expeditious trial of the case. Having regards to the fact that this transfer application is rejected by this Court coupled with the fact that both the suits are ordered to be expedited as they are more than 30 years old cases and listed as targeted case in pursuant to the action plan for arrear reduction in district judiciary, the learned trial court shall proceed further with these suits on expeditious basis in due compliance of the order passed by the Hon'ble High Court of Gujarat. Hence, the following order is passed in the interest of justice.

:- ORDER :-

1. The application is *rejected*.

Pronounced and signed in the open court today.

Date :13/03/2026
Place:Ahmedabad


(Kamal M. Sojitra)
Principal District & Sessions Judge
Ahmedabad (Rural)
U.I.Code No.GJ01494