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IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS
JUDGE, AHMEDABAD (RURAL)

REGULAR CIVIL APPEAL NO. 57 OF 2019

Exh.

APPELLANT:-

(Original Plaintiff No.3)

Pankhaben Ambalal Chunara

Daughter of Manabhai Chunara

Age: 65 years,

Residing at : 25, Indira Nagar, Hathijan,

Taluka: Dascroi, District : Ahmedabad.

V/s.

RESPONDENTS :-

(Nos.1 to 7 - Original Defendants,

Nos.8 to 10 – Original Plaintiff Nos.1, 2 & 4)

1. **Vaishaliben Navinchandra Soni**
Age : Adult,
Residing at : Undapala Ni Pole, Dholka,
Taluka : Dholka, District : Ahmedabad.
2. **Heirs of Deceased Devubhai Chunara**
(2/1) **Kuvarben Wd/o. Devubhai Manabhai**
Age : Adult,
(2/2) **Dashrathbhai Devubhai Chunara**
Age : Adult,
3. **Ramanbhai Manabhai Chunara**
Age : Adult
4. **Kanubhai Manabhai Chunara**
Age : Adult,

5. **Chandubhai Manabhai Chunara**
Age : Adult,
6. **Manubhai Chehubhai Chunara**
Age : Adult,
7. **Miraben Chehubhai Chunara**
Age : Adult,
Nos.2 to 7 residing at : Village : Matoda,
Taluka : Sanand, District : Ahmedabad.
8. **Geetaben Omprakash Gurjar**
Daughter of Manabhai Chunara
Age : Adult
Residing at : Indira Avas, Ambaliara,
Taluka : Dholka, District : Ahmedabad.
9. **Chandaben Pasabhai Chunara**
Daughter of Manabhai Chunara
Age : Adult
Residing at : Jalalpur Vajifa, Taluka : Dholka,
District : Ahmedabad.
10. **Somiben Mafatbhai Chunara**
Daughter of Manabhai Chunara
Age : Adult,
Residing at : Nani Devti, Taluka : Sanand,
District : Ahmedabad.

Subject : Appeal under Section 96 of the Code of Civil Procedure, 1908.

Appearance:

Mr.S.M. Vaghela, Learned Advocate for Appellant.

Mr.J.K.Pandit, Learned Advocate for the Respondent No.1.

Respondent Nos.2 to 8 & 10 – Ex-parte.

-: J U D G M E N T :-

1. Challenge by way of this appeal under Section 96 of the Code of Civil Procedure, 1908 is made against the order dated 06/07/2019 recorded below Exh.17 in Special Civil Suit No.20 of 2018 (hereinafter referred as ‘*the impugned order*’) passed by the

Learned Principal Senior Civil Judge, Sanand (hereinafter referred as '*learned trial court*'). By the said order, the learned trial Court has allowed the application filed by the respondent no.1 – original defendant no.1 under Order 7 Rule 11(d) of the Code of Civil Procedure and rejected the plaint of the appellant – original plaintiff no.3. Being aggrieved and dissatisfied with the said order rejecting the plaint, the appellant has preferred this appeal under Section 96 of the Code of Civil Procedure.

1.1 Appellant herein is original plaintiff no.3 and respondent nos.1 to 7 are original defendants and respondent nos.8 to 10 are original plaintiff nos.1, 2 & 4 before learned trial court. The parties are referred herein as per their original status before the learned trial court for the sake of convenience and brevity.

2. The case of respective parties before the learned trial court can be summarized as under :

2.1 **Plaintiffs Case** :- Plaintiffs are the co-owners and joint occupiers of the suit lands, comprising old tenure agricultural lands bearing Block/Survey Nos. 385, 392, and 398 in Village : Matoda, Taluka : Sanand, which they inherited through their ancestors. In May 2010, plaintiffs required a sum of Rs.1,00,000/- for personal expenses and were approached by Defendant No.1, who claimed to be a liaison for land-related government work and offered to provide the funds against a mortgage of the property. Plaintiffs being illiterate and legally unversed, placed their trust in Defendant No.1, who assured them that the mortgage would be canceled upon repayment within two years and that they would retain possession of the land. Under

the guise of executing this mortgage, Defendant No.1 took the plaintiffs and other family members to the Sanand Sub-Registrar's Office on 23/04/2010 and 28/05/2010, where she obtained their thumb impressions on various documents which are already prepared. However, plaintiffs later discovered through local rumors and a subsequent check of Village Forms 7/12 and 6 – record of right that Defendant No.1 had fraudulently executed and registered sale deeds (vide Serial Nos.3930, 3938, 3939, 5178, 5179, and 5181 of 2010) instead of the agreed-upon mortgage. Plaintiffs contend that these sale deeds are void ab-initio, forged, and non-executable because they never intended to sell the lands, never received the sale consideration or cheques mentioned in the sale deed, and never handed over physical possession of the property. Consequently, plaintiffs have filed this suit seeking the cancellation of the registered sale deeds and a permanent injunction to prevent the defendants from further alienating or creating third-party charges on the suit lands.

2.2 In these set of circumstances the suit is filed by the plaintiffs seeking following reliefs:

“a) Regarding the old tenure agricultural land bearing Block/Survey No.385 admeasuring 0-39-46 H-RA-Sq.Mtrs. situated within the limits of Mouje Village: Matoda, Sub-District Sanand, District : Ahmedabad paiki land admeasuring 0-38-73 H-RA-Sq.Mtrs whose Registered Sale Deed No.3930/2010 was executed at the Sub-Registrar, Sanand office on 23/04/2010 by Defendant No.1 in collusion with Defendants Nos.3 to 7, Late Devubhai Manabhai Chunara, and Late Gomtiben Chehubhai Chunara using false and illegal methods from Plaintiffs Nos.2 to 4, be declared null and void, false, illegal, forged, against the provisions of the Transfer of Property Act, and non-executable, and an order and decree to that effect be passed in favor of plaintiffs and against the defendants of this case.

b) Regarding the old tenure agricultural land bearing Block/Survey No.392 admeasuring 0-64-75 H-RA-Sq.Mtrs. situated within the limits of Mouje Village : Matoda, Sub-District Sanand, District : Ahmedabad paiki land admeasuring 0-63-55 H-RA-Sq.Mtrs. whose Registered Sale Deed No.3938/2010 was executed at the Sub-Registrar Sanand office on 23/04/2010 by Defendant No.1 in collusion with Defendants Nos.3 to 7, Late Devubhai Manabhai Chunara, and Late Gomtiben Chehubhai Chunara using false and illegal methods from Plaintiffs Nos.2 to 4, be declared null and void, false, illegal, forged, against the provisions of the Transfer of Property Act, and non-executable, and an order and decree to that effect be passed in favor of plaintiffs and against the defendants of this case.

c) Regarding the old tenure agricultural land bearing Block/Survey No.398 admeasuring 0-59-69 H-RA-Sq.Mtrs. situated within the limits of Mouje Village : Matoda, Sub-District Sanand, District : Ahmedabad paiki land admeasuring 0-58-59 H-RA-Sq.Mtrs whose Registered Sale Deed No.3939/2010 was executed at the Sub-Registrar Sanand office on 23/04/2010 by Defendant No.1 in collusion with Defendants Nos. 3 to 7, Late Devubhai Manabhai Chunara, and Late Gomtiben Chehubhai Chunara using false and illegal methods from Plaintiffs Nos.2 to 4, be declared null and void, false, illegal, forged, against the provisions of the Transfer of Property Act, and non-executable, and an order and decree to that effect be passed in favor of plaintiffs and against the defendants of this case.

d) Regarding the old tenure agricultural land bearing Block/Survey No.385 admeasuring 0-39-46 H-RA-Sq.Mtrs situated within the limits of Mouje Village : Matoda, Sub-District Sanand, District : Ahmedabad paiki land admeasuring 0-00-73 H-RA-Sq.Mtrs whose Registered Sale Deed No.5178/2010 was executed at the Sub-Registrar Sanand office on 28/05/2010 by Defendant No.1 using false and illegal methods from Plaintiff No.1, be declared null and void, false, illegal, forged, against the provisions of the Transfer of Property Act, and non-executable, and an order and decree to that effect be passed in favor of plaintiffs and against the defendants of this case.

e) Regarding the old tenure agricultural land bearing Block/Survey No.398 admeasuring 0-59-69 H-RA-Sq.Mtrs situated within the limits of Mouje Village : Matoda, Sub-District Sanand, District Ahmedabad paiki land admeasuring 0-01-10 H-RA-Sq.Mtrs whose Registered Sale Deed No.5179/2010 was executed at the Sub-Registrar Sanand office on 28/05/2010 by Defendant No.1 using false and illegal methods from Plaintiff No.1, be declared null and void, false, illegal, forged, against the provisions of the Transfer of Property

Act, and non-executable, and an order and decree to that effect be passed in favor of plaintiffs and against the defendants of this case.

f) Regarding the old tenure agricultural land bearing Block/Survey No.392 admeasuring 0-64-75 H-RA-Sq.Mtrs situated within the limits of Mouje Village : Matoda, Sub-District Sanand, District : Ahmedabad paiki land admeasuring 0-01-20 H-RA-Sq.Mtrs whose Registered Sale Deed No.5181/2010 was executed at the Sub-Registrar Sanand office on 28/05/2010 by Defendant No.1 using false and illegal methods from Plaintiff No.1, be declared null and void, false, illegal, forged, against the provisions of the Transfer of Property Act, and non-executable, and an order and decree to that effect be passed in favor of plaintiffs and against the defendants of this case.

g) Regarding the suit lands mentioned with measurements, description, and four boundaries in Para No.1 of the plaint, i.e., old tenure agricultural land bearing Block/Survey No.385 admeasuring 0-39-46 H-RA-Sq.Mtrs., old tenure agricultural land bearing Block/Survey No.392 admeasuring 0-64-75 H-RA-Sq.Mtrs., and old tenure agricultural land bearing Block/Survey No.398 admeasuring 0-59-69 H-RA-Sq.Mtrs., totalling old tenure agricultural lands admeasuring 1-63-90 H-RA-Sq.Mtrs (i.e., 16390 Sq. Mtrs) situated within the limits of Mouje Village: Matoda, Sub-District Sanand, District : Ahmedabad a permanent injunction be passed in favor of plaintiffs and against the defendants restraining the defendants not make any writings, execute agreement to sell, sell out those lands with any person or individual, not to create any charge or encumbrances on it, not to take possession of the suit lands from plaintiffs, not to create any hindrance or obstacle to plaintiffs in the suit lands, not to stop plaintiffs from taking produce from the suit lands, not enter into the suit land illegally.

h) To award all the costs of this suit from the defendants and grant any other relief that the Hon'ble Court deems proper and reasonable in favor of plaintiffs.”

2.3 Plaintiffs by way of rejoinder (Exh.21) have categorically denied the entire case set up by Defendant No.1 and reiterated the averments made in the plaint and injunction application. It is stated that plaintiffs neither received any payment nor accepted any cheques towards such consideration, and further that they do not maintain bank accounts, thereby negating the possibility of receipt of such payment. Plaintiffs contend that the alleged sale

transactions are without consideration and therefore liable to be cancelled. It is their case that the suit has been filed bonafidely upon discovering that defendant no.1 had wrongfully mutated her name in the revenue records, and that no material facts have been concealed. Plaintiffs further denied any collusion with Defendant Nos.2 to 7 or any intention of financial extortion. Defendant No.1 misrepresented herself as a money lender and, under the guise of advancing loans, fraudulently obtained execution of registered sale deeds instead of mortgage deeds. It is alleged that these documents were executed without payment of consideration and by keeping the plaintiffs in ignorance of their true nature. Plaintiffs contend that the defendant has failed to produce any documentary proof, such as bank records, to establish payment of consideration, thereby supporting the allegation of fraud, misrepresentation, and breach of trust. Consequently, plaintiffs submits that the sale deeds are illegal, void, and liable to be set aside. Plaintiffs have also denied defendant No.1's claim of ownership and possession over the suit lands. Plaintiffs contend that they continue to remain in possession, cultivation, and enjoyment of the suit lands, and that defendant no.1 has never been in possession. The assertions that defendant no.1 acquired valid title under the provisions of the Transfer of Property Act are stated to be incorrect. Plaintiffs further allege that the defendant no.1 has manipulated revenue entries and may attempt to transfer the property to third parties, thereby, necessitating urgent injunctive relief to restrain such actions. Plaintiffs maintain that they have established a prima facie case, that the balance of convenience lies in their favour, and that they would suffer irreparable injury if the defendants are not restrained. Plaintiffs

deny all contrary assertions made by defendant no.1 and submit that the principles governing grant of injunction fully support their case. Accordingly, they pray for cancellation of the impugned sale deeds and for grant of injunction restraining the defendants from transferring or interfering with the suit lands in the interest of justice.

2.4 **Defendant No.1's Case:-** Defendant No.1 has filed her written statement vide Exh.15. Written statement filed by defendant no.1 centers on the argument that the suit is a malicious and time-barred attempt at financial extortion following a lawful property transaction conducted eight years prior. The defendant contends that the suit and injunction application should be dismissed primarily under Order 7 Rule 11(d) of the CPC, as the limitation period for challenging the registered sale deeds of 2010 expired long before the suit was filed in 2018. Defendant No.1 had cited several decision of the Hon'ble Supreme Court and Hon'ble High Court of Gujarat and argued that the date of registration serves as the starting point for limitation, making the current claim legally unsustainable. Defendant No.1 denied all allegations of fraud, breach of trust, or alluring talk, maintaining that the sale deeds (executed vide Serial Nos.5178, 5179, 5181, 3930, 3938 and 3939) were executed legally at the Sanand Sub-Registrar's office with full consideration paid. The defendant no.1 emphasizes the plaintiffs active participation including providing photographs, ID cards and thumb impressions proves the validity of the transfer. Having been the independent owner and occupier since 2010, and with the revenue records reflecting her title, defendant no.1 argues that

the plaintiffs and other defendants have colluded to file this suit only because land prices have increased. Additionally, defendant no.1 raised technical objections regarding the non-joinder and misjoinder of parties and the failure of the plaintiffs to affix the requisite legal court fees, concluding that there is no valid cause of action to file the suit. It is accordingly urged to reject the suit of the plaintiffs.

3. The defendant no.1 had filed an application under Order 7 Rule 11 of the Code of Civil Procedure vide Exh.17 and written arguments in support of the said application vide Exh.31 seeking rejection of the plaint on the ground that the suit is legally unsustainable. It is contended that the plaintiffs suit is legally dead on arrival because it is strictly barred by the law of limitation under Order 7 Rule 11(d) of the Code of Civil Procedure. The defendant no.1 contends her absolute ownership and peaceful possession of the agricultural land in Village : Matoda, Sanand (land bearing Survey Nos.385, 392, and 398 total admeasuring 16,390 sq. meters), based on legally registered sale deeds executed by the plaintiffs in 2010. By emphasizing that the sale deeds were registered at the Sanand Sub-Registrar Office and that full sale consideration was paid and accepted without dispute for years, the defendant no.1 argues that the plaintiffs are now legally estopped from challenging these documents. Furthermore, the defendant no.1 points to the updated revenue records as evidence of a settled title, suggesting that the current litigation is a malafide attempt by the plaintiffs and other defendants to cause financial loss, driven solely by the recent price increase of suit lands. The defendant no.1 argues on

the timeline of the dispute, specifically the eight-year gap between the execution of the sale deeds in 2010 and the filing of the suit in 2018. Relying on decisions of the Hon'ble Supreme Court and the Hon'ble High Court of Gujarat, defendant no.1 argues that the period of limitation begins the moment a document is registered, as registration serves as public notice. By citing several precedents, including the strict refusal of the Hon'ble Supreme Court to condone even minor delays in similar civil matters, the defendant no.1 contends that the Hon'ble Court has mandatory duty to reject the plaint at this preliminary stage. Ultimately, the application characterizes that the suit is a time-barred and collusive effort that fails to meet the statutory requirements for a valid trial, praying for its dismissal with costs to prevent an abuse of the judicial process.

4. The plaintiff has filed his reply vide Exh.24 against the application of defendant no.1 under Order 7 Rule 11 of CPC and also filed written arguments in support of his reply vide Exh.35. Plaintiffs submits that the suit involves complex questions of fact specifically fraud and the discovery of that fraud, which cannot be summarily dismissed without a full trial. Plaintiffs who as per themselves are illiterate contends that the defendant no.1 committed a malafide act by misrepresenting Registered Sale Deeds as Mortgage Deeds, thereby usurping their land without even paying the required sale consideration. Plaintiffs argues that as per Section 52 to 55 of the Transfer of Property Act, the defendant no.1 never acquired legal title or possession, a claim she supports by referencing a court-recorded Panchnama and map that contradicts the defendant's assertions of being in

possession. Furthermore, the plaintiffs addressed the legal bar of limitation by asserting that the suit was filed immediately upon the discovery of the fraud. Citing precedents of the Hon'ble High Court of Gujarat and the Hon'ble Supreme Court, they argues that the issue of limitation is a mixed question of fact and law that must be decided through the evaluation of evidence, rather than as a pure question of law at the preliminary stage. It is contended that, since the defendant no.1 admits to selling portions of the suit lands to third parties, plaintiffs have moved to join these third parties as necessary parties. Plaintiffs argue that the application to reject the plaint cannot be decided until these third parties are joined and the record is complete. Ultimately, the plaintiffs characterize the defendant's application as a false, frivolous and vexatious attempt to exert pressure and gain an illegal advantage through the suppression of material facts. By adhering to the original facts stated in their plaint and injunction application, the plaintiffs contend that the defendant no.1 has failed to establish any legal grounds under the CPC for the rejection of the suit. Plaintiffs conclude that because the registered sale deeds in question were obtained through illegal fraud and lack of consideration, the suit is legally sustainable and must proceed to trial to ensure justice. It is accordingly urged to reject the application filed by the defendant no.1 with costs.

5. The learned trial court after considering the application (Exh.17) under Order 7 Rule 11 of C.P.C., written arguments of defendant no.1 (Exh.31), reply (Exh.24), written arguments (Exh.35) filed by the plaintiffs and considering the arguments of respective parties came to the conclusion that the plaintiffs suit is

clearly barred by the law of limitation. A primary observation made by the Court was that the disputed sale deeds were registered at the Sanand Sub-Registrar office in April and May of 2010. Under established legal principles, the learned trial court noted that once a document is registered, it constitutes deemed notice to the parties involved. Since the plaintiffs admitted to being present at the government office and providing their signatures or thumb impressions on the documents, the learned trial court concluded they had knowledge of the transaction from the date of registration in 2010. The Court further rejected the plaintiffs contention that they only discovered the alleged fraud in 2018 upon checking revenue records. The learned trial court characterized this plea as clever drafting designed solely to bring a time-barred claim within the period of limitation. The learned trial court pointed out that the plaintiffs failed to provide specific dates regarding when they applied for the Village Forms (7, 12, and 8-A) or the exact circumstances under which they discovered the discrepancy. Additionally, the learned trial court found it unbelievable that four sisters would simultaneously be misled into signing sale deeds instead of mortgage deeds in a sub-registrar's office. Finally, the learned trial court observed that the conduct of the plaintiffs was inconsistent with that of a prudent person. While the plaintiffs claimed they signed the mortgage deed to obtain a loan, the learned trial court noted they waited approximately eight years before challenging the instruments, despite allegedly not receiving the loan amount. Applying Article 59 of the Limitation Act, which requires a suit to cancel an instrument to be filed within three years of knowledge, the learned trial court determined that the 2018 filing was far beyond

the legal time frame. Consequently, the learned trial court ruled that the issue of limitation in this specific case was not a mixed question of fact and law but a clear legal bar evident from the plaint itself and thereby, allowed Exh.17 application under Order 7 Rule 11(d) of CPC filed by the defendant no.1. It is this order by which the appellant – plaintiff no.3 being aggrieved has come up before this Court by way of present appeal filed under Section 96 of The Code of Civil Procedure, 1908.

ARGUMENTS

6. Learned Advocate Mr.S.M.Vaghela appearing for plaintiff no.3 submits that the impugned judgment and order passed by the learned trial court is arbitrary, illegal, unjust, perverse, and against the evidence produced by the plaintiffs. The learned trial court erred in not considering that defendant no.1 got the sale deeds executed by fraud by projecting them as mortgage deeds. It also failed to consider the plaintiffs specific averment regarding non-payment of consideration shown in the alleged sale deeds. The trial court ought to have considered that defendant no.1 did not produce any evidence to prove payment of sale consideration. Though it is stated that consideration was paid through cheques, no evidence was produced to establish that such cheques were cleared in favour of the plaintiffs. The plaintiffs contention regarding non-payment of consideration and non-supply of cheques has been ignored. Further, plaintiffs are still in possession of the land in question, which indicates that the land was never sold. The Court Commissioner's report also establishes plaintiffs possession, but the same was not considered. The learned trial court also failed to appreciate that

the plaintiffs came to know about the alleged fraud only in the year 2018 and immediately instituted the suit. Therefore, the suit is within limitation and cannot be rejected merely because the sale deeds are of the year 2010. As the sale deeds are without consideration, they are void ab-initio and can be challenged upon knowledge. Knowledge is a crucial issue and can only be established through evidence. Limitation, being a mixed question of law and fact, cannot be decided without proper trial. The plaintiffs have clearly stated that the suit was filed immediately after acquiring knowledge of the disputed sale deeds. Hence, the plaint could not have been rejected solely on the basis of the dates of the sale deeds. In the application Exh.17, defendant no.1 has not made any averment regarding the plaintiffs knowledge. Therefore, the learned trial court erred in entertaining the application under Order 7 Rule 11(d) CPC and rejecting the plaint as time-barred.

6.1 Appellant - plaintiff no.3 has also filed written arguments vide Exh.41 reiterating the grounds of appeal and emphasizing that the learned trial court failed to consider material facts regarding possession of the suit land. In Special Civil Suit No. 20/2018, a Court Commissioner was appointed who prepared a panchnama, notes, and map of the suit land; however, these were ignored. The learned trial court also overlooked the plaintiffs case that the lands were intended to be mortgaged but, through fraud, sale deeds were executed. Upon discovering this, the plaintiffs obtained copies of the sale deeds and filed the present suit for cancellation, declaration, and permanent injunction. The non-payment of sale consideration was also not considered. The

plaint was wrongly rejected under Order 7 Rule 11(d) CPC by presuming the suit to be barred by limitation without considering pleadings or evidence. The court misinterpreted judgments of the Hon'ble High Court of Gujarat and the Hon'ble Supreme Court while ignoring authorities relied upon by the plaintiffs, and passed the order without framing necessary issues. Defendant no.1 was neither owner nor in possession of the suit lands. As she claimed to have executed sale deeds in favour of third parties, the plaintiffs filed an application to implead such parties. Despite the pendency of this application, the learned trial court proceeded to decide the application for rejection of plaint, which was improper. The learned trial court failed to consider that the plaintiffs never executed valid sale deeds and that fraud was committed by misrepresenting mortgage documents as sale deeds. The finding on limitation is erroneous, as such issue requires evidence being a mixed question of law and fact. Limitation must be computed from the date of knowledge under Article 59 of the Limitation Act, 1963. The trial court incorrectly applied the concept of deemed notice and rejected the plaint without evidence. It also made unwarranted observations and failed to consider documentary evidence including Village Forms Nos.7, 12, and 8-A. No inquiry was conducted regarding payment of consideration, and no proof was produced by defendant no.1. The learned trial court further ignored binding precedents relied upon by the plaintiffs, including *Becharbhai Zaverbhai Patel & Ors. vs. Jashbhai Shivabhai Patel & Ors.* (2012 CJ (Gujarat) 1988), *Popat and Kotecha Property vs. State Bank of India Staff Association* (AIJ 2005 (7) SCC 510), *C. Natarajan vs. Ashimbai* 2007 Law Suit (S.C.) 1112, which

establish that limitation in such cases cannot be decided without evidence. The impugned order rejecting the plaint below Exh.17 is therefore illegal, erroneous, and liable to be set aside. It is accordingly urged that the order passed below Exh.17 in Special Civil Suit No.20/2018 be quashed and set aside, and the suit be restored for trial. In support of his arguments Learned Advocate for the appellant – plaintiff no.3 has relied on following judgments:

- i. Salim D. Agboatwala And Ors. Vs. Shamalji Oddhavji Thakkar And Ors.; Hon'ble Supreme Court of India judgment dated 17/09/2021 in Civil Appeal No.5641 of 2021.
- ii. Shanti Devi Vs. Jagan Devi and Ors.; 2025 AIR SC 4342.
- iii. H.Guruswamy & Ors. Vs. A.Krishnaiah Since Deceased by LRS; 2025 SCC Online SC 54.

7. Respondent No.1 – defendant no.1 has filed her written statement against the appeal vide Exh.22 wherein, it is stated that the sale deeds of Respondent No.1 – defendant no.1 is legal. The sale deeds were executed after paying legal consideration. Since the execution of the sale deed, the possession, occupation, and independent ownership of the properties involved in the appeal belongs to Respondent No.1–defendant no.1. The facts regarding the mortgage deed are entirely fabricated. Respondent Nos.2 to 10 being relatives of the appellant-plaintiff no.3 and are in collusion with each other. Appellant – plaintiff no.3's appeal is not maintainable under the law, and the order passed by the learned trial court below Exh.17 in Special Civil Suit No. 20/2018 is legal. The legal order was passed after hearing all

parties and taking all documentary evidence into consideration. The learned trial court after hearing all parties regarding application – Exh.17 and after a detailed study of all judgments as well as the precedents of the Hon'ble High Court of Gujarat and the Hon'ble Supreme Court presented by both parties, has passed a reasoned order below Exh.17.

7.1 Respondent No.1 - defendant no.1 has also filed written arguments vide Exh.43 wherein, it is argued that the appeal of the appellant–plaintiff no.3 is not true and acceptable. It is submitted that the present appeal filed by the appellant – original plaintiff no.3 is wholly misconceived, untenable in law as well as on facts, and deserves to be dismissed. The learned trial court has passed a well-reasoned and lawful order below Exh.17 in Special Civil Suit No. 20/2018 after considering the pleadings, documentary evidence, and settled legal principles, and therefore no interference is warranted by this Hon'ble Court. At the outset, it is submitted that the appellant – plaintiff no.3, along with original plaintiff nos.1, 2 and 4, had executed registered sale deeds in the year 2010 in favour of Respondent No.1 after receiving valid and lawful consideration. The said documents were duly registered before the Sub-Registrar, Sanand, and bear admitted signatures of the parties, including defendant no.2. Upon execution and registration of the said sale deeds, Respondent No.1 became the lawful and absolute owner in possession of the suit properties. The transactions are valid and protected under the provisions of Sections 52, 53, 54 and 55 of the Transfer of Property Act, 1882, read with Section 3 thereof. The appellant, having voluntarily executed such registered

documents, cannot now be permitted to back off from the same after a prolonged and unexplained delay. It is further submitted that the suit itself is clearly barred by limitation. The sale deeds sought to be challenged were executed and registered in April–May 2010, whereas the suit has been filed only on 15/03/2018, after an inordinate delay of nearly eight years. During this entire period, the plaintiffs remained completely inactive and did not take any steps to challenge the documents or even to verify the revenue records. It is a settled principle of law that registration of a document constitutes deemed notice from the date of registration. Therefore, the present suit is ex-facie barred under Section 59 of the Limitation Act. In this regard, reliance is placed on the judgment of the Hon'ble High Court of Gujarat in *Punambhai Chhanabhai Vanand vs. Hasmmukhbhai Bachubhai Parsana* (Second Appeal No.193 of 2016, decided on 31/01/2017) and the judgment of the Hon'ble Supreme Court in *Dilboo vs. Dhanraji* (2000 C.J. (S.C.) 464), wherein it has been held that limitation begins from the date of registration of the document. The contention raised by the appellant that the documents were executed under the guise of a mortgage deed is wholly false, concocted, and without any evidentiary support. The plaintiffs have themselves admitted that they were present before the Sub-Registrar at the time of execution and have not denied their signatures on the registered documents. This clearly establishes that they were aware of the nature of the transactions and had consciously executed the same. The plea now raised is a merely an afterthought and deserves to be rejected. So far as the contention regarding non-payment of consideration is concerned, the same is specifically denied. In any case, even assuming such

contention for the sake of argument, it is well settled that mere allegation of non-payment of consideration is not a valid ground for cancellation of a registered sale deed. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in *Dahiben vs. Arvindbhai Kalyanji Bhanusali* (Civil Appeal No.9519 of 2019). It is further submitted that Respondent No.1 has in the meantime, transferred portions of the suit lands to third parties through registered sale deeds in the year 2018. The subsequent purchaser - Rajnibhai Dhanjibhai Chunara, became the lawful owner and thereafter transferred the properties in the year 2019 to M/s. Vibrance Projects LLP which is now in possession as an independent owner. Thus, valid third-party rights have been created. Despite having full knowledge of these transactions, the appellant has failed to implead the subsequent purchasers in the present appeal. Therefore, the appeal suffers from non-joinder of necessary parties and is liable to be dismissed on this ground alone. It is also submitted that the present proceedings have been initiated with malafide intent. The appellant and other respondents are closely related and have acted in collusion. The suit has been filed after an unexplained delay of eight years, evidently due to escalation in land prices, with the sole intention of extracting unlawful financial gain from Respondent No.1. In light of the above facts, settled legal position, and binding judicial precedents, it is respectfully submitted that the order passed by the learned trial court below Exh.17 is legal, proper, and does not suffer from any infirmity. The present appeal, being devoid of merits, deserves to be dismissed with costs. In support of his arguments, Learned Advocate for the Respondent No.1 – defendant no.1 has relied on

following judgments:

- i. Dilboo Vs. Dhanraji; 2000 CJ (SC) 464.
- ii. Khatunben Mohammedbhai Polara; 2019 GLH (3) 308.
- iii. Kanjibhai Bhagwanjibhai Patel Vs. Nanduben Shamjibhai Sorathiya and Ors.; (2013) 1 GLR 51.
- iv. Raghwendra Sharan Singh Vs. Ram Prasanna Singh (Dead) by L.Rs.; AIR 2019 SC 1430.
- v. Dahiben Vs. Arvindbhai Kalyanji Bhanusali (D) thr. L.Rs. and Ors.; AIR 2020 SC 3310.
- vi. Jilubhai Jamubhai Vs. Bahadurbhai Jamabhai; Hon'ble High Court of Gujarat judgment dated 26/03/2020 in R/First Appeal No.236 of 2020 and Civil Application No.1 of 2019 in R/First Appeal No.236 of 2020.
- vii. Van Oil Petroleum Vs. M.V. Denali; 2018 GLH (2) 431.
- viii. Poonambhai Shanabhai Valand and Ors. Vs. Hasmukhbhai Bachubhai Parsana and Ors.; (2017) 3 GLR 2511.
- ix. Patel Dhanjibhai Ambaram Vs. Navinchandra Vrajlal Ved and Ors.; Hon'ble High Court of Gujarat judgment dated 01/10/2021 in R/Civil Revision Application No.122 of 2016.
- x. Keshavbhai Gandabhai Vs. Urmilaen; Hon'ble High Court of Gujarat Judgment dated 20/10/2021 in R/Civil Revision Application No.503 of 2019.
- xi. Manglaben Maganlal Modi Vs. Jitendrabhai Bhikhabhai Patel; Hon'ble High Court of Gujarat Judgment dated 02/08/2021 in R/First Appeal No.1021 of 2021.
- xii. Smt. Uma Devi and Ors. Vs. Sri. Anand Kumar and Ors.; 2025 LiveLaw (SC) 382.

8. Though being served and despite given sufficient opportunities respondent nos.2 to 8 and 10 or their Learned Advocate have not appeared before the Court, therefore, the present appeal is proceeded ex-parte against respondent nos.2 to 8 and 10 vide order dated 20/01/2020 recorded below Exh.1.

9. Heard Learned Advocate for the respective parties. The Court has gone through the record of the case, Trial Court record and proceedings, impugned order passed by the Learned trial court, judgments relied on by the respective parties in the appeal. Considering the grounds raised by appellant in appeal, written arguments (Exh.41) of appellant, reply (Exh.22) filed by Respondent No.1 and written arguments (Exh.43) filed by the Respondent No.1 before this court, following points are raised for its determination in this appeal.

1. Whether the impugned order passed by learned trial court is illegal and erroneous?
2. Whether the suit is barred by law of limitation?
3. What order ?

10. The answer of the court on the above points are as under:

1. In negative.
2. In affirmative.
3. As per final order.

REASONS

POINT NOS.1 & 2:

11. As the Point Nos.1 and 2 are interconnected and interwoven together, reasons for Point Nos.1 and 2 are discussed

herein together for the sake of brevity and to avoid repetition.

12. Before advertng to the grounds raised in this appeal it would be relevant to refer the provisions and case laws governing the field with regard to rejection of the plaint.

ORDER VII RULE 11 OF CPC:

"11. Rejection of plaint. - The plaint shall be rejected in the following cases: -

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the court, fails to do so;

(c) where the relief claimed is properly valued but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the court fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9:

Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case maybe, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff."

13. Legal principles governing provision of Order 7 Rule 11 of CPC have been explained by the Hon'ble Supreme Court in the decision in case of "**Dahiben v. Arvinbhai Kalyanji Bhanusali (Gajra) (D) Thr Lrs & Ors.**" Civil Appeal No.9519 of 2019 dated 09/07/2020. The relevant paras read as under:

*"12.1 ******

The remedy under Order VII Rule 11 is an independent and special remedy, wherein the Court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action

should be terminated on any of the grounds contained in this provision.

The underlying object of Order VII Rule 11 (a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11 (d), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

In *Azhar Hussain v. Rajiv Gandhi* [1986 Supp. SCC 315 Followed in *Maharaj Shri Manvendrasinhji Jadeja v. Rajmata Vijaykunverba w/o Late Maharaja Mahedrasinhji*, (1998) 2 GLH 823] this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words :

“12. ...The whole purpose of conferment of such power is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the Court, and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even if an ordinary civil litigation, the Court readily exercises the power to reject a plaint, if it does not disclose any cause of action.”

12.2 The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order VII Rule 11 are required to be strictly adhered to.

12.3 Under Order VII Rule 11, a duty is cast on the Court to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint [*Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I & Anr.*, (2004) 9 SCC 512.], read in conjunction with the documents relied upon, or whether the suit is barred by any law.

12.4 Order VII Rule 14(1) provides for production of documents, on which the plaintiff places reliance in his suit, which reads as under:

“Order 7 Rule 14: **Production of document on which plaintiff sues or relies.**—

(1)Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is

presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to document produced for the cross examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory.”

(emphasis supplied)

Having regard to Order VII Rule 14 CPC, the documents filed alongwith the plaint, are required to be taken into consideration for deciding the application under Order VII Rule 11 (a). When a document referred to in the plaint, forms the basis of the plaint, it should be treated as a part of the plaint.

12.5 In exercise of power under this provision, the Court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

12.6 At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration [Sopan Sukhdeo Sable v. Assistant Charity Commissioner, (2004) 3 SCC 137].

12.7 The test for exercising the power under Order VII Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V.Sea Success I & Anr. (2004) 9 SCC 512 which reads as :

“139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments

made in the plaint are taken to be correct in their entirety, a decree would be passed.”

In Hardesh Ores (P.) Ltd. v. Hede & Co. (2007) 5 SCC 614 the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact [D. Ramachandran v. R. V. Janakiraman, (1999) 3 SCC 267; See also Vijay Pratap Singh v. Dukh Haran Nath Singh, AIR 1962 SC 941].

12.8 If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order VII Rule 11 CPC.

12.9 The power under Order VII Rule 11 CPC may be exercised by the Court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of Saleem Bhai v. State of Maharashtra (2003) 1 SCC 557. The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain (supra).

12.10 The provision of Order VII Rule 11 is mandatory in nature. It states that the plaint “shall” be rejected if any of the grounds specified in clause (a) to (e) are made out. If the Court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the Court has no option, but to reject the plaint.”

14. The plain reading of provision Order 7 Rule 11 of the Code provides that the plaint shall be rejected where the suit appears from the statement in the plaint to be barred by any law. Hence, in order to decide whether the suit is barred by any law, it is the statement in the plaint which will have to be construed. The Court while deciding such an application must have due regard only to the statements in the plaint. Whether the suit is barred by any law must be determined from the statements in the plaint and it is not open to decide the issue on the basis of any other

material including the written statement in the case.

15. The primary ground for rejecting the plaint is that the suit is barred by the law of limitation. Under Article 59 of the Limitation Act, 1963, suit to cancel or set aside an instrument or decrees or for the rescission of a contract has to be filed within period of three years from the date when the cause of action arose. Article 59 of the Limitation Act reads as under:

Article 59 of Limitation Act:-

No	Description of Suit	Period of Limitation	Time from which period begins to run
59	To cancel or set aside an instrument or decree or for the rescission of a contract.	Three years	When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.

16. It transpires that the present appeal does not merit acceptance, as the learned trial court has rightly exercised its jurisdiction under Order 7 Rule 11(d) of the Code of Civil Procedure by rejecting the plaint on the ground that the suit is barred by limitation. It is a settled principle of law that while deciding an application under Order 7 Rule 11(d), the Court is required to confine itself strictly to the averments made in the plaint and the documents forming part thereof. In the present case, even a plain and meaningful reading of the plaint clearly reveals that the sale deeds in question were executed and registered in April–May 2010, whereas, the suit has been instituted only on 15/03/2018, i.e., after a lapse of nearly eight years. Thus, ex-facie, the suit appears to be barred by law of limitation.

17. The relief sought by the plaintiffs is for cancellation of registered sale deeds on the ground of fraud and declaration that the same are void. Such a relief is governed by Article 59 of the Limitation Act, 1963, which prescribes a period of three years from the date when the facts entitling the plaintiff to seek such relief first become known. In the present case, the plaintiffs have themselves admitted in the plaint that they had appeared before the Sub-Registrar and had affixed their thumb impressions on the documents. Once the execution and registration of the documents are admitted, the law attributes knowledge of the contents and nature of such documents to the executants from the very date of registration. Registration operates as deemed notice to all concerned, particularly to the parties to the document.

18. The contention of the plaintiffs that they came to know about the alleged fraud only in the year 2018 is not only vague but also appears to be an afterthought aimed at bringing a time-barred claim within the period of limitation. The plaint does not disclose any specific date, event or circumstance explaining as to how and when such knowledge was acquired. In absence of such material particulars, the plea of discovery of fraud cannot be accepted at face value. Mere use of the word fraud without supporting foundational facts is insufficient to extend the period of limitation. The learned trial court has rightly observed that such pleadings amount to clever drafting intended to circumvent the bar of limitation.

19. Moreover, the conduct of the plaintiffs, as reflected from the plaint itself, is inconsistent with that of a prudent person.

Despite alleging that no consideration was paid and that they were misled into executing documents, the plaintiffs remained silent for nearly eight years without taking any steps to verify the nature of the documents or to challenge the same. Such unexplained and inordinate delay further weakens their case and supports the inference that the suit is barred by limitation.

20. The argument advanced on behalf of the appellant that limitation is a mixed question of law and fact and therefore cannot be decided at the threshold is misconceived in the facts of the present case. Where the bar of limitation is apparent on the face of the plaint itself, the Court is not only empowered but is duty-bound to reject the plaint under Order 7 Rule 11(d) CPC. In the present matter, no detailed inquiry or evidence is required to arrive at such a conclusion, as the relevant dates and admissions are evident from the plaint itself.

21. All the judgments relied upon by the appellant pertain to situations where either the facts were disputed or the pleadings disclosed a genuine issue requiring trial. In the present case, the plaintiffs have failed to plead necessary particulars to bring their case within the exception of date of knowledge, and the delay of eight years remains unexplained. Therefore, the said judgments are not applicable to the facts of the present case and do not assist the appellant in overcoming the clear bar of limitation.

22. The learned trial court has, therefore, correctly applied the settled legal principles and has rightly concluded that the suit is hopelessly time-barred. The findings recorded are well-reasoned,

based on proper appreciation of the pleadings, and do not suffer from any illegality, perversity, or jurisdictional error warranting interference by this appellate Court.

23. For the foregoing reasons, this court finds no reason to interfere with the order dated 06/07/2019 recorded below Exh.17 in Special Civil Suit No.20/2018 passed by learned trial court rejecting the plaint under Order 7 Rule 11 of CPC being barred by law of limitation. Accordingly, the appeal is devoid of merits and deserves to be dismissed consequently, Point No.1 is answered in negative and Point No.2 is answered in affirmative and following final order is passed below Point No.3 in the interest of justice.

-: ORDER :-

1. The regular civil appeal (RCA No.57 of 2019) is ***dismissed***.
2. The order dated 06/07/2019 recorded below Exh.17 in Special Civil Suit No.20 of 2018 passed by the Learned Principal Senior Civil Judge, Sanand is hereby upheld.
3. Record and proceedings be sent back to the Trial Court along with copy of this judgment.
4. Decree be drawn accordingly as per judgment passed in this appeal.
5. Parties shall bear their own costs.

Pronounced and signed in the open court today.

Date : 23/04/2026
Place:Ahmedabad

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