



**IN THE COURT OF ADDITIONAL CIVIL JUDGE, TALUKA: KALOL,
DIST. GANDHINAGAR**

Civil Miscellenious No.17 of 2026

Applicants

(1) Paresh Raghubhai Patel

Age : 55 years, Occu.Agricultural/Business,

(2) Bharat Raghubhai Patel

Age : 52 years, Occu.Agricultural/Business,

(3) Dharmendra Raghubhai Patel

Age : 50 years, Occu.Agricultural/Business,

(4) Kamlaben Raghubhai Patel

Age : 78 years, Occu.Household,

All are residing at : Devnagar, Nr.Gota,

Tal.Gatlodiya, Dist.Ahmedabad.

Versus

Opponents

(1) Partnership Firm of Shivam Corporation,

Amrutbhai Kalidas Vakil

Age : Adult, Occu.Agricultural/Business,

Residing at : 16, Chanpaner Society, Usmanpura,

Ahmedabad

(2) Ranchodbhai Ambalal Patel

Age : Adult , Occu.Agricultural/Business,

Residing at : E-74, Sarvoday Society Vibhag-1,

Bhuyangdev Sola Road, Ahmedabad.

**Order below Exhibit 1 - an application under Order 47 Rule 1 of the
Civil Procedure Code, 1908.**

Pleadings of application

1. Through learned advocate Mr. A. K. Pandiya, the applicant has filed the present application inter alia stating that the RCS No.201/2001 is filed for the reliefs of declaration and injunction, in which the temporary injunction is granted on 30.04.2002 till the final disposal of the suit. Thereafter, the opponents had filed an application vide Exh.50 under Order 1 Rule 10(2) and Order 6 Rule 17 of CPC, which was granted by the learned predecessor. Against that order, the applicants had approached Hon'ble High Court vide SCA No.10717/2010 and Hon'ble High Court has passed order to file two separate applications under Order 1 Rule 10(2) as well as Order 6 Rule 17 of CPC, on 11.06.2025. Accordingly, the Opponents had filed two separate applications. This Court had issued notice under Exh.80 (an application under Order 1 Rule 10(2)) and the applicants had appeared through learned advocate and Co-Advocate mistakenly endorsed no objection to application Exh.80 and accordingly this Court had joined the necessary parties vis the present application in RCS Application No.201/2001.

It is averred that the Opponents have suppressed the material facts with regard to the suit properties vis survey No.382(block No.477, survey No.406/1, 406/2 (block No.481 and survey No.408/2) (block No.483) as

well as RCS Nos.24/2002, 25/2002 and 26/2002. It is averred that the applicants' advocate came to know about the order below Exh.80 on 13.01.2026 and the applicants are not proper & necessary parties and therefore requested to this Court to review the application vide Exh.80.

On the above mentioned averments, the applicants have produced the copy of registered sale deeds as well as the reply to Exh.80.

Arguments

2. This Court has not issued process to the opponent in the peculiar set of circumstances that the applicants' advocate herself has endorsed no objection with regard to joining of the applicants vide Exh.80.

The applicants have filed written argument vide Exh.8 inter alia repeating the averment of the application and hence averred that the applicants have purchased the suit properties vis survey No.382(block No.477, survey No.406/1, 406/2 (block No.481 and survey No.408/2) (block No.483) vide three registered sale deed executed in the year 2002 and has admitted that they have become the owners of the suit properties. It is averred that the opponent has suppressed material facts with regard to RCS Nos.24/2002, 25/2002 and 26/2002 and the applicants have no nexus with the suit lands viz survey No.482/1 and 482/2. The applicants have relied upon Para 22 and 23 of the judgment by Hon'ble Gujarat High Court in the case of Tulsidas Raghavjibhai Vithlani Vs. Priyavandan ben Harishankar Rajyaguru (2023 (0) AIJEL-HC 247802) on the point of review under Order 47 Rule 1 of CPC and also relied upon para-13 of the judgment by Hon'ble Supreme Court in the case of S.J.S.Business Enterprise Pvt. Ltd. Vs. State of Bihar (AIR-2004 HC (0) 2421) on the point of suppression of material facts and prayed this Court to review the order below Exh.80 in RCS N0.201 of 2001.

3. I have heard the learned advocates for the applicant. I have also perused the record and proceedings of RCS No.201/2001 the record reflects that the original application under Order 1 Rule 10 was filed vide Exh.50 on 13.07.2007. After order of Hon'ble High Court, the application again filed on 18.10.2025. After service of notice, the proposed defendant Nos. 2 to 5 (the present applicants) had appeared vide Exh.81 and filed an adjournment application for hearing vide Exh.82 on 18.10.2025. It further appears from the record that from 18.10.2025 till 03.01.2026 the proposed defendants have not filed any reply and thereafter on 03.01.2026 the learned advocate has endorsed no objection and thereafter this Court has without any delay passed order below exh.80 to join the proposed defendants and accordingly the amendment is carried out by the plaintiff (the present Opponent) and amended copy is also produced on record. On bare reading of Exh.80, it transpires that the plaintiff has specifically mentioned that by fraud the sale deeds are executed for some of the suit lands and the suit lands are transferred in the name of the proposed defendants (the present applicants). It is averred that the 135(d) notice is not issued to the plaintiff with regard to the disputed sale deeds and therefore proposed defendant Nos.2 to 5 are for adjudication of the matter.
4. After perusing the record of RCS 201/2001 more particularly, the averment of Exh.80 as well as the averments of the present application, the following are the reasons for the decision.

(a) The present application is preferred under Order 47 Rule 1 of the Civil Procedure Code, 1908 seeking review of the order passed below Exh.80, whereby the present applicants came to be joined as party defendant nos. 2 to 5 under Order 1 Rule 10(2) of CPC.

At the outset, it is pertinent to consider the scope and ambit

of review jurisdiction under Order 47 Rule 1 of CPC. It is a settled position of law that review can be entertained only on limited grounds, namely:

- (i) discovery of new and important matter or evidence which, after exercise of due diligence, was not within knowledge of the applicant,
- (ii) mistake or error apparent on the face of the record, or
- (iii) any other sufficient reason analogous thereto.

The review jurisdiction cannot be exercised as an appellate jurisdiction to re-appreciate the facts or to take a different view on merits.

(b) In the present case, **the applicants have, in unequivocal terms, admitted in their pleadings as well as written arguments** that they have purchased part of the suit properties, namely Survey No.382 (Block No.477), Survey No.406/1 and 406/2 (Block No.481) and Survey No.408/2 (Block No.483) by registered sale deeds executed in the year 2002. Thus, their own admission clearly establishes that they have a direct and substantial interest in the subject matter of the suit.

The original suit i.e. RCS No.201/2001 is filed for declaration and injunction, wherein the plaintiff has specifically challenged the transactions and alleged that the suit properties have been transferred by way of fraudulent sale deeds. **In such circumstances, the presence of the present applicants, in whose favour the sale deeds are executed, is not only proper but necessary for effective and complete adjudication of the controversy involved in the suit. In absence of such parties, any**

decree passed would either be ineffective or lead to multiplicity of proceedings.

(c) The provision of Order 1 Rule 10(2) of C.P.C. empowers the Court to add any person as a party whose presence is necessary or proper for the effective adjudication of the issues involved. **A “necessary party” is one without whom no effective decree can be passed, whereas a “proper party” is one whose presence enables the Court to completely, effectively and adequately adjudicate upon all matters in dispute.** Applying this principle to the facts of the present case, **this Court is of the considered opinion that the applicants squarely fall within the category of both necessary as well as proper parties.**

(d) Further, the record reflects that after service of notice of Exh.80, **the present applicants appeared before the Court and were granted sufficient opportunity to file their reply. However, they failed to file any objections for a considerable period and ultimately, on 03.01.2026, their learned advocate endorsed “no objection” to the application under Order 1 Rule 10(2) of CPC.** Based on such endorsement, this Court passed the order below Exh.80 and consequential amendment has already been carried out. Thus, the order sought to be reviewed is passed after due opportunity and on the basis of express consent of the applicants through their advocate.

The contention of the applicants that such endorsement was made mistakenly cannot be accepted lightly in absence of any cogent and convincing material. A mere allegation of mistake, without substantiating the same, does not fall within the ambit of

“error apparent on the face of record” or “sufficient reason” as contemplated under Order 47 Rule 1 of CPC.

(e) So far as the contention regarding suppression of material facts by the opponents is concerned, **this Court is of the view that such disputed questions pertaining to pleadings, rival claims and validity of transactions cannot be adjudicated in a review application.** The review jurisdiction is not meant for deciding such issues on merits, which are required to be adjudicated during the trial of the suit on the basis of evidence.

(f) The applicants have relied upon the judgments of the Hon’ble High Court of Gujarat in the case of *Tulsidas Raghavjibhai Vithlani Vs. Priyavandanben Harishankar Rajyaguru* and the Hon’ble Supreme Court in the case of *S.J.S. Business Enterprise Pvt. Ltd. Vs. State of Bihar* on the aspect of review and suppression of material facts. This Court has carefully considered the ratio laid down therein. However, in the peculiar facts and circumstances of the present case, the said judgments do not advance the case of the applicants, as the applicants have failed to demonstrate any error apparent on the face of record or any sufficient reason warranting exercise of review jurisdiction.

5. In view of the above discussion, this Court is of the considered opinion that the applicants have failed to establish any ground as contemplated under Order 47 Rule 1 of CPC and that **the order passed below Exh.80 does not suffer from any error apparent on the face of record** and that the applicants are necessary and proper parties to the suit in view of their

admitted interest in the suit properties and that the contentions regarding suppression of facts require adjudication at the stage of trial and cannot be decided in review proceedings. Thus at this juncture, this Court thinks it fit to pass the following final order.

FINAL ORDER

(a) The present application below Exh.1 preferred by the applicants under Order 47 Rule 1 of the Civil Procedure Code, 1908 in Regular Civil Suit No.201 of 2001 is hereby **rejected**.

(b) No order as to cost.

Signed & Pronounced in the open court today, on this 10th day of April, 2026.

Date : 10.04.2026.

Place: Kalol

(Priyanka Jaymin Surti)
Additional Civil Judge,
Kalol, Dist.Gandhinagar
Code No.GJ01570

//p.j.surti//self//