ORDER BELOW EXHIBIT : 5

IN RCA. NO. 66/2025

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1. The appellant has filed this appeal against the judgment and decree passed by the Learned Principal Civil Judge, Talala in RCS No. 59/2015 dated 08.05.2025. Along with this appeal, appellant has filed the application under order 41 rule 5 of the Civil Procedure Code at Exh. 5 for stay the judgment and decree of the Ld. Trial Court.

2. Read this application and heard Learned advocate of both the parties.

3. Ld. Advocate of the appellant Mr. R. A. Siraji vehemently argued that the plaintiff filed the suit for the cancellation of Registered sale deed against the present appellant and respondent no 4. Learned Trial Court allow the suit and passed the decree against the present appellant. I was purchased the agricultural land by Registered Sale deed from the respondent no 4 in the year 2017. The Trial Court has not given the injunction against the plaintiff in the said suit. After the judgment and decree, Learned Trial Court stay his judgment and decree upto filing of this appeal. At present, I have the possession of the suit land. So, Hon’ble Court kindly give injunction against the present respondent.

4. Notice has been duly served to the respondent nos. 1 and 4 by Registered A.D. as per report produced by the Ld. Advocate of the appellant at mark 20/1 and 20/4. Notice duly served to the respondent no. 2 at Exh. 6, but they have not appeared and raised any objection in this appeal.

5. Learned advocate Mr. M. R. Mehta of respondent no. 3 vehemently opposed the arguments advanced by the Learned advocate of the appellant and submitted that the suit land is the ancestor property of respondents. The present appellant and respondent no. 4 are executed the false Registered sale deed. Due to this shock, the father of the plaintiff no. 1 Bhagwanji Sojitra committed the suicide and heard the name of the present appellant and respondent no. 4 mentioned in the suicide note. The present appellant is not the bonafide purchaser of the disputed land. This fact is also established by the plaintiff in the suit. Therefore, Learned Trial Court passed the judgment and decree against the present appellant. No any substance in this appeal. So, Hon'ble Court kindly reject the application filed by the present appellant.

6. Persued the record of the case and documents filed by the appellant at Exh. 3/1 to 3/6. It shows that the present appellant filed this appeal against the judgment and decree passed in the RCS No. 59/2015 by the Learned Principal Civil Judge, Talala dated 08.05.2025 and Learned Trial Court stay the judgment and decree upto 30 days as per order produced at mark 3/2.

7. Persued the record of this case, intially Learned Trial Court issued the notice to other side on 04.06.2025 and not passed any order of injunction or not granted any stay against the order and decree passed by the Learned Trial Court. But extend the order passed by the Learned Trial Court on 18.06.2025 in the application dated 04.06.2025 signed by the Learned Additional District Judge. At that time, this application is not taken on record as per the Rojkam and not mentioned the exhibit in this application. Therefore, the stay application filed by the appellant on 04.06.2025 and order passed by my predecessor is required to take on record. Therefore, today, the stay application is taken on record and given wide Exhibit 21. On the basis of order of this application, this court extend the stay order to the next date.

8. The disputed land purchased by the present appellant by Registered Sale deed and as per case of the present appellant, he is the legal owner and in the possession of the suit land. Learned Trial Court cancelled the Registered Sale deed no. 34 dated 07.01.2014 and Registered Sale deed 1283/2017 dated 09.10.2017 by passing the judgment and decree on 08.05.2025. The present appellant filed the first appeal as per Section 96 of the Civil Procedure Code. As per the provisions of the Civil Procedure Code and Section 96 of the Civil Procedure Code, first appeal is the right of the parties. If this first Appellate Court not stay the judgment and decree passed by the Learned Trial Court, then, respondent – original owner of the land sale the disputed land to another person. Then the appellant lost his right and compulsory involve in the further litigation and create the

multiplicity of the suit. If the Appellate Court stay the judgment and decree passed by the Learned Trial Court and after hearing of this appeal if the appeal is rejected, then also respondent have not lose his right. So, the balance of convenience is in favour of the appellant. If this application is not granted, then, respondent create the another transaction to third party and the appellant lose his right upon the disputed land and suffer irreparable loss. Therefore, in the interest of justice, it is required to stay the judgment and decree passed by the Learned Trial Court till the final decision of this appeal. Hence, I pass the following order :

// <u>ORDER</u> //

1. This Application is hereby allowed.
2. The judgment and decree passed by the Learned Principal Civil Judge, Talala in RCS no. 59/2015b dated 08.05.2025 is hereby stay till the final decision of this appeal.
3. No order as to cost.

Signed and pronounced in the open Court today on **6th** day of **February, 2026.**

Place : Veraval

Date : **06.02.2026**

(Jignesh J. Pandya)

2nd Additional District Judge,

Veraval.

(Code No. GJ-00756)