

BEFORE THE HON'BLE 3rd ADDL. DISTRICT JUDGE**JAMNAGAR****ORDER PASSED BELOW Exh..5***In***Regular Civil Appeal No. :78/2025*****Mansukh Ranchhodhbhai Rathod vs. Ranchhodhbhai Mavabhai Rathod and others*****APPEARANCE :-**

Ld. Advocate for the Appellant	Mr. T. D. Mamtora
Ld. Advocate for the Respondents	None

- (1). The Appellant / Original Plaintiff had filed Special Civil Suit No.13/2017 for Seeking partition from the ancestral property and the Hon'ble Principal Senior Civil Judge, Lalpur was pleased to dismiss the said suit vide Judgment and Order dtd. 09/09/2025. Being aggrieved and dissatisfied by the said Judgment and Order dtd.09/09/2025. Plaintiff has filed this Appeal under Section Order 96 of C.P.C. and submitted that the matter requires considerations of Law and Appreciation of Evidence. It reflects that the Hon'ble Trial Court had passed an order below Exh.-5 to maintain status-quo for suit property till disposal of the suit and further reflects that the Hon'ble Trial Court has extended the stay till Appeal period vide Order dtd.10/09/2025 below Exh. 164.

- (2). It is the case of the Appellant/Original Plaintiff that 12 properties more particular described in para 2 of the appeal are ancestral property as pleaded and most of the property are in the name of his grandfather and therefore, he get the right in the property by birth as they are not self-acquired property. It is submitted except one property, all other properties are in the name of Mava Padma Dalwadi-grandfather of the plaintiff and till date no the partition took place.
- (3). The Ld. Advocate of the plaintiff has submitted that he is not seeking partition from property of his father but partition in share from his ancestral property which stood in the name of his grandfather. It is well settled law that every member of the Hindu undivided family get right in the ancestral property by birth and are co-coparcener. It is submitted that the Ld. Advocate for the Plaintiff that authority of the case of *Uttam vs. Saubhag Sing and others* will not be applicable in the present case due to different facts and circumstances. In view of the facts of the present appeal, it requires to hear the same, but during the pendency of the same the Stay granted by the Hon'ble Trial Court is required to be extended till next returnable date. Hence, I pass the following order.

ORDER

- (i) Notice to Other side returnable on 17/11/2025.
- (ii) The Interim Relief restraining the transfer of the suit property mentioned in the schedule-A which was granted below application at Exh.5 by the Hon'ble Trial Court extended by order dtd.10/09/2025 passed below application at Exh.164, shall stand granted and extended till next date.

Signed, pronounced and declared in the open Court on this 13th day of October, 2025, at Jamnagar.

Date : 13/10/2025

Place : Jamnagar

//K.Yadav//

(Rasikkumar V. Mandani)

3rd Additional District Judge
Jamnagar. (Code : GJ00715)