



IN THE COURT OF ADDITIONAL SENIOR CIVIL JUDGE,  
KADI, DISTRICT : MAHESANA.

**SPECIAL CIVIL SUIT NO. 32 OF 2024**

**:: Order Below Exh. – 5 ::**

1. The plaintiff has instituted the suit for cancellation of sale deed, declaration heirship and permanent injunction with respect to the old tenancy agricultural land bearing Khata No.469, Re-Survey No.149 (old Survey No.217/1 A/Paiki 2) admeasuring Hect.Acre.Sq.mtrs. : 0-91-39 and Re-survey No.461 (old Survey No.193 paiki 2) admeasuring Hect.Acre.Sq.mtrs. : 1-37-04 situated in the sim of Moje : Balasar, Sub-district : Kadi, District : Mahesana (**herein after referred to as the suit properties**).

1.1 **Brief facts of the plaint** :

That, the suit properties are ancestral joint ownership properties of the plaintiffs and defendant Nos. 1 to 4 as per Hindu Succession Act. The suit properties were on the name of plaintiffs and defendant Nos. 1 to 4's ancestor Bhagvanbhai Mohanbhao Patel and after his death, names of plaintiffs and defendant Nos. 1 to 4 have been mutated in the revenue record vide entry No.2855. Their names were also mutated in the revenue record with respect to other

property bearing Survey No.1430. It the say of the plaintiffs that, defendant Nos. 1 to 4 came to mother of plaintiff Nos.1/1 to 1/5, plaintiff No.2, 3/1 & 3/2 and obtained their signature by assuring them to have their names in other properties and thereby deprived their rights. Subsequently, the plaintiffs have come to know that the defendant Nos. 1 to 4 have obtained signature of plaintiffs' mother in Notarised relinquish deed on 12.02.2021 and thereby name of their mother have been expunged in the revenue record vide entry No.6115. As against the said entry, the plaintiffs have filed appeal before the Prant Officer vide RTS/VIVAD/375/2022. Though any Notice U/s. 135(D) of the Revenue Code with respect to mutation entry No.6115 has not been served upon the plaintiffs, the defendants along with the help of officers, have mutated false revenue entries.

It is the say of the plaintiffs that, the defendant Nos. 1 to 4 have executed false and illegal registered sale deed in favor of defendant No.5 vide registered sale deed No.15738 on dated 17.11.2021 and its mutation entry was registered in the revenue record vide entry No.6317. Thus, the defendant Nos. 1 to 4 have betrayed the plaintiffs and caused a huge loss to them. The defendants have contravene the provisions of Land Revenue Code, Transfer of Property Act, Registration Act and Hindu Succession Act. Under such circumstances the plaintiff constrained to file the suit and during the pendency of the suit, plaintiffs have filed the present application Exh.5 to get temporary injunction

against defendants.

- 1.2 In the plaint, the plaintiffs have prayed for ; declaration that plaintiffs have inheritance right, title and interest in the suit properties ; cancel the Notarised relinquish deed vide Sr. No.4667 dated 12.02.2021 ; cancellation of registered sale deed No.15738 dated 17.11.2021.
- 1.3 In support of the version of the plaint, the plaintiff has filed the following documents :

| Sr.No. | Description of document                                    | Mark           |
|--------|--|----------------|
| 1      | Copy of P.O.A. of plaintiffs                               | 3/1            |
| 2      | Copy of revenue record                                     | 3/42 to<br>3/8 |
| 3      | Copy of death certificate of Hansaben                      | 3/9            |
| 4      | Copy of death certificate of Vasantiben                    | 3/10           |
| 5      | Copy of Disputed Case No.304/2022 before the Prant Officer | 3/11           |
| 6      | Copy of Disputed Case No.375/2022 before the Prant Officer | 3/12           |
| 7      | Copy of documents for entry No.6115                        | 3/13           |
| 8      | Copy of documents for entry No.5645                        | 3/14           |
| 9      | Copy of documents of Notice for entry No.5645              | 3/15           |
| 10     | Copy of registered sale deed No.15738                      | 3/16           |
| 11     | Copy of entry No.6317                                      | 3/17           |
| 12     | Copy of election card of P.O.A. holder of plaintiffs       | 3/18           |

2. Process was duly served upon the defendants. Defendants remained present before the Court through their Ld.

Advocate and filed their reply vide Exh.17 & 21 whereby the defendant has denied in totality the contentions of the plaintiff.

- 2.1 The defendant No.5 in his reply vide Exh.17 has specifically contended that he has purchased the suit property from its owner i.e. the defendant Nos. 1 to 4 by paying sale consideration amount of Rs.32,89,000/- by way of cheque vide registered sale deed No.15738 on dated 17.11.2021 and since then the defendant No.5 own and possess the suit properties. The defendant has contended that, primarily the suit property was owned and possessed by Bhagvanbhai Mohanbhai and he died intestate and as such names of his lineal descendants i.e. defendant Nos. 1 to 4 and plaintiff Nos.1, 2 & 3, thereafter, the plaintiff Nos. 1 to 3 by their own will have relinquished their right in favor of the defendant Nos. 1 to 4 by Notarised deed vide Sr. No.4667 on dated 12.02.2021 and resultantly their names have been expunged in the revenue record vide entry No.6115. Moreover, the plaintiff Nos. 1, 2 & 3/1 have signed on the Notice U/s. 135D of the Land Revenue Code and plaintiffs have not raised any objection against such entries. Thereafter, the defendant No.5 has purchased the suit properties after verifying the title of the suit property and accordingly, the defendant No.5 is bonafide purchaser and as such plaintiff's suit is not maintainable.

- 2.2 The defendant Nos. 1 to 4 have categorically contended that the suit properties were on the joint name of plaintiffs and

defendant Nos. 1 to 4. The defendant Nos. 1 to 4 have performed all the ritual affairs of the plaintiffs and also given their share and thus, the plaintiffs by their own will have relinquished their right in favor of the defendant Nos. 1 to 4 by Notarised relinquish deed on 12.02.2021 and its relevant entries being No. 5645 and 6115 have been mutated in the revenue record and both the entries are certified as per the provisions of Land Revenue Code and the plaintiffs are well aware with such facts and they have not raised any objections against such entries. However, after the execution of sale deed in favor of the defendant No.5 on dated 17.11.2021, the plaintiffs have filed RTS case No.375/2022 on the basis of concocted facts and the said dispute was rejected on 22.06.2023. The defendants have contended that since the execution of sale deed in favor of defendant No.5, the defendant No.5 is holding possession of the suit property and he is cultivating the suit property.

2.3 In addition to above, the defendants have submitted that, plaintiff has no prima facie case and balance of convenience is not in favour of the plaintiff, if the injunction order granted in favour of the plaintiff then defendants have to suffer huge loss which may not be compensated in terms of money, hence suit as well as injunction application of the plaintiff are liable to be dismissed with cost and requested to give compensatory cost of to the defendants.

3. Heard the Ld. Advocate for the parties.

4. Perused the material produced on record and considering the pleadings of the Ld. Advocate for the plaintiff, following issues have been framed to decide the present application below Exh.5 : -

**:: ISSUES ::**

1. Whether the plaintiff have a prima facie case in their favour ?
2. Whether the balance of convenience is in favour of the plaintiff ?
3. Whether an irreparable injury will be caused to the plaintiff if temporary injunction is not granted ?
4. What order ?

- 4.1 My findings to the above points are as under :

1. Issue No.1 : **In Negative.**
2. Issue No.2 : **In Negative.**
3. Issue No.3 : **In Negative.**
4. Issue No.4 : **As per final order.**

**:: REASONS ::**

- **Issue Nos.1 to 3 :-**
5. All these issues are inter-connected with each other and in order to avoid repetition of the facts, all these issues are dealt and discussed together.

5.1 Plaintiffs have filed revenue case No.304/2021 and 375/2022 for cancellation of succession entry based on the relinquish deed bearing entry No.6115 before the Prant Officer, Kadi which has been rejected by the Revenue Authority. The relinquish deed has been executed by the plaintiff Nos. 1, 2 & 3 themselves by appearing before the Revenue Authority. Plaintiffs are not challenging the fact of mutation entry, rather, it is made by playing fraud upon the plaintiff Nos. 1 to 3

To appreciate this fact, it is necessary to go through the law with regard to the revenue entries in the following provisions of Gujarat Land Revenue Code, 1879.

*108. Preparation of statistical and fiscal records.- It shall be the duty of the survey officer, [or the Settlement Officer] on the occasion of making or revision a settlement of land revenue, to prepare a register, to be called "the Settlement Register", showing the area and assessment of each survey number, [with any other particulars that may be prescribed] and other records in accordance with such orders as may from time to time be made on this behalf by [the [State] Government].*

5.2 As per this section statistical and fiscal records are prepared and made by the survey officer and the duty has been cast upon him to prepare the settlement register showing the area and assessment of each survey number. Plaintiff in his plaint stating that existing revenue entries in favor of defendants shall be stand canceled which is undoubtedly within the

power and disposition of revenue authorities under Gujarat Land Revenue Code.

It will also be worth to go through the procedure for the mutation in the village records. following section provides for procedure of such mutation.

***135D. Register of mutations and register of disputed cases.-***

*[(1) The village accountant shall enter in a register of mutations every report made to him under section 135C or any intimation of acquisition or transfer of any right of the kind mentioned in section 135C received from the Mamlatdar or a Court of Law.]*

*(2) Whenever a village accountant makes an entry in the register of mutations he shall at the same time post up a complete copy of the entry in a conspicuous place in the chavdi, and shall give written intimation to all persons appearing from the record of rights or register of mutations to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.*

*(3) Should any objection to any entry made under subsection (1) in the register of mutations be made in writing to the village accountant, it shall be the duty of the village accountant to enter the particulars of the objection in a register of disputed cases [and to give a written acknowledgement of the receipt of such objection to the person making it.]*

*(4) Orders disposing of objections entered in the register of disputed cases shall be recorded in the register of mutations*

*by such officers and in such manner as may be prescribed by rules made by the [ [State] Government] in this behalf.*

*(5) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the [[State] Government] in this behalf: provided that an entry in the register of mutations shall not be transferred to the record of rights until such entry has been duly certified.*

*(6) **Entries in register of mutations how to be certified.** - Entries in the register of mutations shall be tested and if found correct or after correction, as the case may be, shall be certified by a revenue officer of rank not lower than that of a Mamlatdars' first Karkun.*

*(7) **Tenancies.** - The provisions of this section shall apply in respect of perpetual tenancies and also in respect of any tenancies mentioned in a notification under subsection (2) of section 135-B, but the provisions of this section shall not apply in respect of other tenancies, which shall be entered in a register of tenancies, in such manner and under such procedure as the [[State] Government] may prescribe by rules made in this behalf.*

*135L. (1) No suit shall lie against the [Government or any officer of Government] in respect of a claim to have an entry made in any record or register that is maintained under this Chapter, or to have any such entry omitted or amended, and the provisions of Chapter XIII shall not apply to any decision or order under this Chapter.*

*(2) The correctness of the entries in the record of rights and register of mutations shall be inquired in to and the particulars thereof revised, by such Revenue Officers and in such manner and to such extent and subject to such appeal as the [State Government] may from time to time by rules prescribed in this behalf. ]*

The entries made by the revenue authorities in the name of defendant Nos. 1 to 4 has been certified and admittedly been effected into the village form no.6,7/12 and 8A. As per the Gujarat Land revenue Code, any mutation that has been effected in the revenue records by following the due process mentioned in Sec.135 D is the exclusive jurisdiction of Revenue Authorities and such entries cannot be challenged before the Court of Law vide Sec.135 L. Plaintiff fails to account as to how such revenue entries can be challenged before this Court. There is no pleading in the plaint itself which warrants the Court to intervene in the exclusive jurisdiction of revenue authorities.

Plaintiffs have asked for the cancellation of the registered sale deed dated 17.11.2021 executed by the defendant Nos. 1 to 4 in favor of defendant No.5 but in such sale deed plaintiffs are not the party to the sale agreement and plaint is silent upon the facts disclosing the vitiating actors upon which a sale deed can be adjudged as canceled.

6. Failure of plaintiff ; to account for the jurisdiction of this

court for cancellation of revenue entry, insufficient reason for the lapse of time to cancel the registered sale deed made in the year 2021 and Non-impleadment of full particulars like fraud, misrepresentation or undue influence dealing with the cancellation of registered sale deed does not make the case of plaintiff as a prima-facie case.

As a prima facie case is not established by the plaintiff then rest of the two elements of temporary injunction need not to be discussed.

6.1 Upon the strength of above facts & circumstances and the settled principles of law, answer to issue Nos.1 to 3 comes in Negative and court passes the following order for issue No.4 :

**:: Final Order ::**

1) The present Injunction application below Exh.5 is rejected.

Pronounced in the open Court today on this 30<sup>th</sup> day of the Month of January, 2026 at Kadi.

Place :Kadi.  
Date: 30.01.2026

**(Ram Kumar Arya)**  
Additional Sr. Civil Judge,  
Kadi, District : Mahesana.  
(GJ 01324)