

**Order below Exh.4**  
in  
**Regular Civil Appeal No.28/2023**

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1. The appellants herein who are the original defendants before the Ld. Trial Court in Regular Civil Suit No.106/2016 have filed the present application along with the appeal memo, praying to stay the implementation of Judgment & decree, dtd.04-05-2023 passed by the Ld. Principal Sr. Civil Judge, Godhra in the said suit. It is contended by the appellants that the Ld. Trial Court has allowed the said suit so, being aggrieved with the said Judgment & decree, they have preferred the present appeal. It is further contended that the contentions raised in the appeal memo may be considered as part & parcel of this stay application. It is further contended that there is every possibility that they will succeed in this appeal and it will take considerable time before the appeal is adjudicated, but considering the facts and documentary evidence, they have *prima facie* case, balance of convenience lies in their favour, as well as, aspect of irreparable loss is also in their favour. Under these circumstances, if the impugned Judgment & decree is not stayed till final disposal of this appeal, then the respondents will take disadvantage of this Judgment & decree and the appeal may become infructuous and it will cause injustice to the appellants, as well as, cause irreparable loss to their civil right. Therefore, the appellants have prayed to stay the implementation of Judgment & decree passed by the Ld. Trial Court in the said suit till final conclusion of the present appeal.

2. It transpires that at the time of institution of the present appeal, the appellants have pressed the application of Exh.4, praying to pass ad-interim order and in pursuance to the same my Ld. Predecessor was pleased to stay the to stay the implementation of Judgment & decree, dtd.04-05-2023 passed by the Ld. Trial Court in Regular Civil Suit No.106/2016 till next date i.e. 16-05-2023 which was subsequently extended on basis of the applications submitted by the appellants.
  
3. On institution of the present appeal, the notices were issued to the respondents. The respondents No.1 & 2 have appeared through their ld. advocate Mr. H. G. Virpura who has submitted written arguments vide Exh.12 against the present application, wherein they have denied the contentions raised by the appellants and have further contended that the Ld. Trial Court, in its Judgment on Page No.16 in Para-20 has observed that, "He admitted that only the farmers can purchase the agricultural land. He admitted that at present the suit land is running in the name of the Government in the revenue record." Therefore, the suit property which was entered in the name of the appellants was forfeited by the Government since the appellants were not agriculturists. Therefore, even after the order passed by the Ld. Trial Court, there may be no change in the status of the defendants. Therefore, the pleadings raised in the present application are unreasonable. The Ld. Trial Court has adjudicated the suit by trying on merits and therefore, if the injunction as prayed by the appellants is granted, then the Judgment passed by the Ld. Trial Court will become meaningless. The Ld. Trial Court, after evaluating the evidence has observed that the partition of the suit property was not done, as well as, the appellants have failed to

prove on record that any such legal partition was done between the seller and plaintiffs. Therefore, the respondents have prayed to reject the application.

In the present proceeding, the other respondents were now and then served with the notices, but they have returned unserved, therefore, lastly a public notice was issued by the appellants in the newspaper and copy of the said newspaper is produced vide Mark 22/1. Thereafter, nobody else except the respondents No.1 & 2 has remained present, whereas on record, it appears that the respondents No.3 & 4 have passed away but their legal heirs are not joined in the present appeal.

4. On behalf of the appellants herein, the Id. advocate Mr. A. R. Dave has argued as per the appeal memo and injunction application and has contended that the Judgment & decree passed by the Ld. Trial Court is illegal and against the settled proposition of law. It is further argued that they are the bonafide purchasers of the suit property and the Ld. Trial Court, at the end of trial has passed the Judgment declaring their sale deed as cancelled, as well as, has even passed order in para-7 that, "A certified copy of the decree be sent to the Sub-Registrar, Godhra, for taking necessary action, in view of the provisions of Section 31(2) of the Specific Relief Act, 1963. Therefore, if their sale deeds are cancelled and effect is given for the same and during the interregnum period if the other side carries out any transaction with respect to the suit property then they will have to bear irreparable loss and even have to enter into the multiplicity of litigations. Therefore, he has prayed to stay the implementation of the Judgment & decree till final disposal of the appeal.

5. Having heard the Id. advocates of respective parties and having perused the material on record, it transpires that it was the case of the present appellants before the Ld. Trial Court that they are the bonafide purchasers of the suit property, as well as, the plaintiffs have suppressed the material facts regarding execution of registered sale deed vide No.3922/2013, 3923/2013, 3924/2013, 62/2013, 1005/2013, 1006/2013. Further, the suit land was a joint land of the defendant No.6 and Rayliben Ramsing, Chaturiben Ramsing, Maliben Ramsing, Champaben Ramsing. Then after, the registered relinquish deed No.1005/13 & 1006/13 was executed by Rayliben Ramsing, Chaturiben Ramsing, Maliben Ramsing, Champaben Ramsing and they have relinquish their right and share in favour of the defendant No.6 and thus, the defendant No.6 became the independent owner of the suit land. Thereafter, the appellants have paid full consideration to the defendant No.6 and have purchased the suit land by way of registered sale deed, therefore, they are the bonafide purchasers. It is even contended that the mutation entry No.2326 & 2324 were done with respect to the deeds of relinquishment. Considering the said defence, it transpires that the said aspect is required to be dealt with during the course of full-fledged arguments of the present appeal. Therefore, when the present appellants are purchasers of the suit land by way of registered sale deed and if the Judgment and decree is implemented and if the Para No.7 of final order portion of the said Judgment is complied and the entry of cancellation is carried out by the concerned authority with respect to the sale deed executed in favour of present appellants, then there may be circumstance arising that the other side may carry out some transaction against the interest of the present appellants. Under these circumstances, the status quo

situation is required to be maintained with respect to the said sale deeds. Further, the appellants will also have to submit written undertaking on affidavit that they will not carry out any transaction with respect to suit property during pending appeal and the appellants will have to even proceed with the final arguments of the present appeal which will have to be concluded by them within a period of Four months. Therefore, considering the overall aspects, following order is passed in the larger interest of justice.

### **ORDER**

1. The present application vide Exh.4 preferred by the appellants is hereby allowed and the Judgment & decree passed by the Ld. Trial Court in RCS No.106/2016, dtd.04-05-2023 is hereby stayed till the final disposal of the present appeal.
2. The appellants herein will have to submit written undertaking on affidavit that they will not carry out any transaction with respect to suit property during pending appeal.
3. The appellants will have to proceed with the final arguments of the present appeal which will have to be concluded by them within a period of Four months from the date of this order.

Signed and pronounced in the open Court today on this 12<sup>th</sup> day of March, 2025.

Date : 12-03-2025

Place : Godhra

(Parvezahemad A. Malaviya)  
5<sup>th</sup> Additional District Judge,  
Panchmahals at Godhra.  
Code No. GJ00837