



IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE, AT:- SAVLI, DIST:-  
VADODARA.

Special Civil Suit NO.22 of 2018

(Old Special Civil Suit No.45 of 2011)

ORDER BELOW EXHIBIT-262.

1. The present application is filed under Order 11 Rule 18 of CPC by the plaintiff seeking production of and inspection documents mentioned as under:

Sr.No.	Details	Date
1.	Sale Deed No.620	14.09.1970
2.	Sale Deed No.221	29.04.1971
3.	Sale Deed No.391	23.06.1971
4.	Sale Deed No.744	18.12.1971
5.	Agreement between original defendants	15.09.1969
6.	Memorandum of understanding between original defendants	30.12.1971
7.	Receipt and account of legal expensed, fees paid to advocates for Supreme Court case as well as litigations in revenue courts regarding disputed suit	

	properties	
8.	Special power of attorney given by defendant no.1,3 & 8 to defendant no.2 Girishbhai Patel	07.12.1997
9.	Special power of attorney given by defendant no.4 & 10 to defendant no.2 Girishbhai Patel	18.11.1997

2. Against this application, reply is filed vide Exhibit-267. In this reply, it is stated that present application is filed by the plaintiff to delay the suit proceedings and documents which are mentioned are having no relevance with the present suit and hence, the present application may be rejected.

**3. Submission of the Ld. Advocates:**

3.1. The Ld. Advocate for the plaintiff Mr. P.K.Kapadiya submitted that all the documents mentioned in this application are very much relevant and essential for just decision of the suit and hence, this application requires to be granted.

3.2. Per contra, the Ld. Advocate for the respective defendants have submitted that the person may be willing as it is for the defendant to decide which documents are to be produced in support of their counter claim and defence.

**4. Discussion:**

4.1. Having heard the Ld. Advocate for the either sides. This Court has gone through the records and proceedings of the suit.

4.2. In this suit, Issues are framed vide Exhibit-237 on 30.01.2024.

Since 2024, till today, almost one year has been passed, the plaintiff has not produced evidence. It cannot be ignored that the present suit is filed for specific performance of oral agreement, when the plaintiff himself approached up to the Hon'ble Supreme Court and when direction for expeditious disposal of the suit by the Hon'ble Supreme Court. Parties as well as their Ld. Advocates are expected to cooperate the Court in disposal of the suit in time bound manner as ordered by the Hon'ble Supreme Court, which is not followed in the present suit. So far as claim of the plaintiff with regard to production of the documents are concerned, the plaintiff in his entire plaint has nowhere stated that fact as to payment of consideration and earnest money is not paid by the defendant. To put it otherwise, it can be state that by filing the present application, first time this plea has been raised by the plaintiff by filing this present application. Thus, this court believes that there is no ground to allow this application along with document para and filing Affidavit for that particular document is concerned.

4.3. So far, claim of the plaintiff with regard to production of the documents are concerned, the plaintiff in his entire plaint has nowhere stated that fact as to payment of consideration and earnest money is noted by the defendant. To put it otherwise, it can be said that by filing the present application, first time this plea has been raised by the plaintiff. Thus, this court believes that, there is no ground to allow this application. along with document para and filing Affidavit for that particular document is concerned.

4.4. So far as this application is concerned, this Court believes that sale deed which are mentioned in the present application can be produced by the plaintiff in form of certified copies as the same can be obtained from the Sub Registrar Office. Agreement between the original defendant cannot be challenged and sought to be produced by the plaintiff as the same is not the subject matter of the present suit. Same notifies to believe to be a Memorandum of Understanding between the original defendants and so far as the documents sought to be produced vide Sr. No.7 is concerned, it is for the defendant to decide and it is for the defendant to take decision about to produce of this particular documents. Because, the defendants have also filed counter claim for the present suit and if, they wish to produce the said document, they will at liberty to file the same. It is apt to note that to prove his own case, the plaintiff cannot force the defendant to produce the document and by producing these documents of defendant, the plaintiff cannot prove his own case. Law to this effect is very much clear that the plaintiff is always supposed to prove to his own case by leading own evidence. So far as Power of Attorney mentioned at Sr. No. 8 & 9 are concerned, the Ld. Advocate for the defendant has submitted that this Power of Attorneys are also not required and it will be produced on record. The plaintiff has to prove his case of specific performance of oral agreement.

4.5. At this juncture this Court would like to recall herein judgement of Hon'ble Gujarat High Court delivered in case of *Future Scaps Infra Vs. Ankurbhai Pavle reported as AIR 2023 (Guj.)150.* In this judgement

explaining scope of Order-11 of C.P.C. at belated stage Hon'ble Gujarat High Court observed as under.

4.6. *"6.3.2 Considering the suit finding, it seems that learned Trial Court has committed gross error in law as the learned Trial Court is not required to enter into that arena by considering that whether those documents are required to produce merely on the assumption that it will help the defence of the defendants that is not the duty of any Court to examine from this angle. Moreover, this consideration is out of requirement under the provisions of Order 11 Rules 12 to 14 of the C.P.C. and also the findings which are given by the learned Trial Court is erroneous. Moreover, the learned Trial Court has not considered the fact that the when the trial is commenced and the trial is at the stage of recording of evidence, and thereafter, such application under the provisions of Order 11 Rule 12 cannot be entertained except in exceptional circumstances. The above are from the entire records produced before this Court as well as from the submissions made at the Bar and also from the written submissions filed by the rival parties."*

4.7. In this suit also, plaintiffs have failed to make out any exceptional grounds which can come to rescue of the plaintiffs for allowing this application. Considering the overall facts and circumstances of the suit, this Court believes that when the plaintiff has filed the suit for specific performance of oral agreement, it is always upon the plaintiff to prove his own case. Whenever case is before the Court and production of documents, the plaintiff cannot be allowed to sought

production of the documents from the defendant to prove his case. Hence, this Court believes that the present application requires to be rejected.

**-:: ORDER ::-**

1. The present application is hereby **rejected**.
2. No order as to cost.

Pronounced and signed in the open Court today on 5<sup>th</sup> day of March, 2025  
at Savli.

Place :- Savli.

Date :- 05/03/2025

**(Vikram Karsanbhai Solanki)**  
Principal Senior Civil Judge,  
Savli.  
Judge Code No.:-GJ-01099

*/ R. J. Chauhan /*