

SPCS No. 222 of 2019**Order below Ex.1 read with application Ex.13**

1. The plaintiff has filed this suit for the relief of cancellation of the sale deed of their so called Power of Attorney dated 16.12.2017 and on the basis of that Power of Attorney, the sale deed bearing registration No. 3060/2018 dated 29.08.2018 in favour of by the defendant herein.
2. The defendant was served with the summons and had entered appearance and had also filed the written statement at Ex.17 on 11.09.2019. The panchnama was also recorded at the instance of the plaintiff and produced at Ex. 14. Since the defendant was not contesting the suit, plaintiff has filed an application 11.09.2021. Ex.16 was placed on record requesting the court to proceed the suit Ex-parte and the order which was granted, but the order of ex-parte was recalled by the application of the defendant at Ex. 16. The defendant had paid the cost and the order of ex-parte against the defendant and was set aside.
3. The plaintiff No. 3 expired and the legal heirs of the plaintiff was allowed by an application Ex. 26.
4. The defendant herein has by application Ex. 30 brought to the notice of this Court by application Ex. 30 and Ex. 31 that the plaintiffs herein by the Samjuti Karar/consent deed executed before the Notary on 07.11.2019 had executed deed consenting the sale deed of the defendant by accepting the

amount of Rs.4,06,575/- each. According to the defendant, the defendants in all have paid Rs. 24,29,450/- and in the said consenting agreement, the plaintiffs have accepted and consented the Power of attorney held by the defendant and the sale deed stands in favour of the defendants. The defendant has also placed on record the proof of Bank Statement showing the passing of the payment in favour of the plaintiffs herein. Thus, now it is the case of the defendants that the plaintiff though received the money and the plaintiff in the consenting terms agreed to withdraw the present suit, the plaintiffs are not coming forth to withdraw the suit because of the fact that now no cause of action survives in the suit.

5. Therefore, under the aforesaid factual background, this Court is of the opinion that the plaintiffs having filed this suit have satisfied their cause of action to file this suit by accepting the consideration and executing the consent deed before the Notary. Despite this the plaintiffs are not coming forward to act as per the consent and agreement given in the consent terms. Under this situation, this an application and at the instance of the defendants. According to the defendant, when the cause of action does not survives, the plaintiffs unnecessarily puts this suit as an obstruction in the clear title of the defendant over the suit property and therefore invites this Court to act under the provision of section 151 and also

under Order 7 Rule 11. In the aforesaid background, the following order.

ORDER

- Acting under Order 151 read with the Provision of Order 7 Rule 11 (a) of CPC, the plaint of suit is dismissed holding that no cause of action survives for the plaintiffs in the suit and hence dismissed.
- Decree be drawn accordingly.

Dictated in the Open Court on this 04th April, 2025.

Date : 04.04.2025

Place: Ahmedabad

[K.P. Pachode]

3rd Additional Senior Civil Judge
Ahmedabad (Rural) at Navrangpura
(Judge Code No. GJ00930)