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***IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,  
PRANTIJ***

**SPECIAL CIVIL SUIT NO. 37 OF 2017  
OLD SPECIAL CIVIL SUIT NO. 10 OF 2015  
 Exh.:**

- (1) Patel Umiyaben W/o. Babubhai Venabhai  
 Aged about : 65 years, Occupation : Household,
- (2) Patel Jigneshkumar Babubhai  
 Aged about : 38 years, Occupation : Lawyer,  
 Both are resi. of : Rampura(Amodara), Ta.: Prantij,  
 Dist.: Sabarkantha.
- (3) Patel Shitalben Babubhai  
 Aged about : 39 years, Occupation : Household,  
 C/o. Dharmendrakumar Navnitbhai Shamaldas Patel  
 Resi. of : Punsari, Ta.: Talod, Dist.: Sabarkantha.

... ..Plaintiffs

**VERSUS**

- (1) Patel Babubhai Venabhai  
Aged about : 67 years, Occupation : Labour,  
Resi. of : Rampura(Amodara), Ta.: Prantij,  
Dist.: Sabarkantha.
  - (2) Suthar Vasantbhai Nathabhai  
Aged about : 65 years, Occupation : Agriculture,  
Resi. of : Varthu, Ta.: Modasa, Dist.: Arvalli.
  - (3) Patel Bharatbhai Bhikhabhai  
Aged about : 62 years, Occupation : Agriculture,  
Resi. of : Gadhoda, Ta.: Himmatnagar,  
Dist.: Sabarkantha.
  - (4) Patel Mathurbhai Punjabhai  
Aged about : 64 years,
  - (5) Parmar Vishnuji Shankarji  
Aged about : 54 years, Occupation : Agriculture,  
Resi. of : Rampura(Amodara), Ta.: Prantij,  
Dist.: Sabarkantha.
  - (6) Rabari Alpeshbhai Jayrambhai  
Aged about adult, Occupation : Broker,  
Resi. of : Mauchha, Ta.: Prantij,  
Dist.: Sabarkantha.
  - (7) Patel Bharatbhai Mathurbhai  
Aged about : 43 years,  
Resi. of : Rampura(Amodara), Ta.: Prantij,  
Dist.: Sabarkantha.
- . . . . . Defendants

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**Appearance:-**

Learned advocate Mr. B. M. Shukla for the plaintiffs.

Learned advocate Mr. A. K. Jetavat for defendant No.1.

Learned advocate Mr. P. J. Soni for defendant Nos. 2 to 7.

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**Sub : Suit for getting declaration and permanent injunction**

**:: Judgment ::**

1. The plaintiffs have filed this Special Civil Suit against the defendants for getting declaration and permanent injunction.

2. The short facts of the present suit are as under:

That the plaintiff No.1 is the wife of the defendant No.1 and the plaintiff Nos.2 & 3 are children of defendant No.1. The agricultural lands of Amodara vilalge of Prantij taluka were inherited by defendant No.1 as ancestral property. Regarding this, entry No.2071 has been mutated in the Village Form No.6 in the name of defendant No.1's father - Venabhai Devkarbhai. After the death of Venabhai Devkaranbhai, the agricultural lands were registered in the name of the defendant No.1 as an ancestral property through entry No.2132 on 10/12/77 hence the agricultural lands were acquired by the defendant No.1 as an ancestral property and the plaintiffs were the legal direct heirs of the defendant No.1 and had the right of inheritance. The land of Amodara village bearing Account No.650,

Survey No. 360 paiki 2, Account No.668, Survey No.374 were acquired by the defendant No.1 by inheritance (hereinafter referred as disputed properties). And since these agricultural lands were ancestral property of the plaintiffs, the inheritance right was vested in them. And therefore, since the plaintiffs had inheritance rights in these agricultural lands, the defendant No.1 was not legally entitled to sell or transfer the said property in any other way without the consent of the plaintiffs. Also, name of the defendant No.1 was entered in the record only as the administrator of the said lands of the joint family and thus, the plaintiffs' legal implied inheritance rights in the said agricultural lands were and are being upheld.

Taking into account the sale documents mentioned in para-3 of the plaint and the notes of alteration in the revenue records, the market value of the property bearing Survey No.374 is shown as Rs.4,51,608/- while the consideration amount is shown as Rs.2,00,000/-, similarly the market value of Survey No.360 paiki 2 is shown as Rs.9,46,980/- while the consideration amount is shown as Rs.2,00,000/- hence it is also clear from this that defendant Nos.2 & 3 have betrayed and cheated defendant No.1 by showing a consideration amount less than the market value and has fraudulently obtained these sale deeds. Further, the consideration

amount of Rs.2,00,000/- as mentioned in the registered sale deed has not been paid to the defendant No.1. No receipt has been taken from the defendant No.1 regarding the payment of consideration. In view of that, it is clearly proved by the prima facie evidence that the said sale deeds were executed by the defendant Nos. 2, 3 out of betrayal and fraud with the defendant No.1.

The plaintiffs have legal right, interest and share in the disputed property. The plaintiffs have right of inheritance, interest and share in the disputed property. The plaintiffs have not given any power of attorney to the defendant No.1 or any other person to transfer the disputed property nor have they in any way waived the hereditary rights existing over the disputed property and as such the plaintiff has legal right over the disputed property and as such direct possession and enjoyment was and is with the plaintiffs. And since these agricultural lands were ancestral property of the plaintiffs, the inheritance right was vested in them. And therefore, since the plaintiffs had inheritance rights in these agricultural lands, the defendant No.1 was not legally entitled to sell or transfer the said property in any other way without the consent of the plaintiffs. Also, name of the defendant No.1 was entered in the record only as the administrator of the said lands of the joint family and thus, the

plaintiffs' legal implied inheritance rights in the said agricultural lands were and are being upheld.

Defendants Nos.2 & 3 and defendant Nos.5 & 6 conspired with each other and formed a pre-planned conspiracy. That the defendant Nos.2 & 3 deceived and conspired with the defendant No.1 by telling that the fact of borrowing money on the disputed land and also by telling them to enter into a mortgage agreement as security against the said money. They took it before Sub-Registrar's Office, Prantij and read out the mortgage agreement, hiding that agreement. They fraudulently got the signed in the registered sale deed prepared for the disputed property. That the defendant Nos.2 & 3 had fraudulently obtained the sale deed. That entry Nos.4104 & 4105 have been mutated in the revenue record. Thereafter, the defendant No.1, having come to know about this, filed an appeal before the Deputy Collector Shri Prantij against the said sale deeds. And in that appeal also, instead of executing a mortgage deed of the disputed lands, the defendant Nos.2 & 3 had executed registered sale deed with the defendant No.1 by cheating. Also, the defendant Nos.2 & 3 had fraudulently executed the said sale deeds with the defendant No.1, the defendant No.1 had submitted a written complaint to the Chief Minister, Home Minister, Police Commissioner

as well as the Collector and his subordinate officers regarding the fact that this sale deeds were executed by cheating. Regarding which complaint, the Chief Minister's Officer had instructed the Collector to take appropriate action. Also, the Collector had issued a notice to the defendant No.1 in this regard. But since the said sale deeds have been executed, if there is any dispute regarding this sale deeds, the Civil Court has the powers to cancel these sale deeds. The Collector has informed the defendant No.1 through his letter to seek relief from the Civil Court. Hence, the plaintiffs have filed the present suit.

3. The summons were issued to the defendants, which were duly served to the defendants.

Defendant No.1 is appeared through Ld. Adv. Mr. A. K. Jetavat and he has filed written statement vide Exh.28 that the agricultural lands of Amodara vilalge of Prantij taluka were inherited by defendant No.1 as ancestral property. Regarding this, entry No.2071 has been mutated in the Village Form No.6 in the name of defendant No.1's father - Venabhai Devkarbhai. After the death of Venabhai Devkaranbhai, the agricultural lands were registered in the name of the defendant No.1 as an ancestral property through entry No.2132

on 10/12/77 hence the agricultural lands were acquired by the defendant No.1 as an ancestral property. Defendants Nos.2 & 3 and defendant Nos.5 & 6 conspired with each other and formed a pre-planned conspiracy. That the defendant Nos.2 & 3 deceived and conspired with the defendant No.1 by telling that the fact of borrowing money on the disputed land and also by telling them to enter into a mortgage agreement as security against the said money. They took it before Sub-Registrar's Office, Prantij and read out the mortgage agreement, hiding that agreement. They fraudulently got the signed in the registered sale deed prepared for the disputed property. That the defendant Nos.2 & 3 had fraudulently obtained the sale deed. That entry Nos.4104 & 4105 have been mutated in the revenue record. Thereafter, the defendant No.1, having come to know about this, filed an appeal before the Deputy Collector Shri Prantij against the said sale deeds. And in that appeal also, instead of executing a mortgage deed of the disputed lands, the defendant Nos.2 & 3 had executed registered sale deed with the defendant No.1 by cheating. Also, the defendant Nos.2 & 3 had fraudulently executed the said sale deeds with the defendant No.1, the defendant No.1 had submitted a written complaint to the Chief Minister, Home Minister, Police Commissioner as well as the

Collector and his subordinate officers regarding the fact that this sale deeds were executed by cheating. Regarding which complaint, the Chief Minister's Officer had instructed the Collector to take appropriate action. Also, the Collector had issued a notice to the defendant No.1 in this regard. But since the said sale deeds have been executed, if there is any dispute regarding this sale deeds, the Civil Court has the powers to cancel these sale deeds. The Collector has informed the defendant No.1 through his letter to seek relief from the Civil Court. Hence, the defendant No.1 has supported to the facts of the present suit.

Defendant Nos. 2 to 6 have appeared through Ld. Adv. Mr. P. J. Soni and they have filed their written statement vide Exh.27 wherein they have denied the facts of the present suit and further they have stated that this suit is barred by delay, laches and non joinder of necessary parties hence this suit should be rejected with costs. Further, they have stated that they had paid full amount of consideration to the defendant No.1 and the defendant No.1 had sold the disputed land to the defendant Nos.2 & 3 and thereafter, the defendant Nos.2 & 3 had sold the disputed lands to the defendant No.4 and the Village Form No.7/12, Village Form No.8-A and Village Form No.6 and Panipatrak are running in the name of the defendant

No.4 hence the defendant No.4 is bonafide purchaser. Hence, defendant Nos.2 to 4 have prayed to reject the present suit with costs.

4. To prove the present suit, the plaintiffs have produced following oral as well as documentary evidence.

**:: Oral evidence ::**

| Nos. | Particulars                                                        | Exh. |
|------|--------------------------------------------------------------------|------|
| 1    | Affidavit in chief of plaintiff No.2 - Patel Jigneshkumar Babubhai | 65   |

**:: Documentary evidence ::**

| Nos. | Particulars                                      | Exh. |
|------|--------------------------------------------------|------|
| 1    | Village Form No.6 regarding entry No.2071        | 72   |
| 2    | Village Form No.6 regarding entry No.2132        | 73   |
| 3    | Village Form No.6 regarding entry No.2133        | 74   |
| 4    | Village Form No.6 regarding entry No.2323        | 75   |
| 5    | Village Form No.6 regarding entry No.2362        | 76   |
| 6    | Village Form No.6 regarding entry No.3003        | 77   |
| 7    | Village Form No.6 regarding entry No.3023        | 78   |
| 8    | Village Form No.6 regarding entry No.3014        | 79   |
| 9    | Village Form No.8-A bearing Account No.650       | 80   |
| 10   | Village Form No.7 bearing Survey No.360 paiki 2  | 81   |
| 11   | Village Form No.12 bearing Survey No.360 paiki 2 | 82   |
| 12   | Village Form No.8-A bearing Account No.668       | 83   |
| 13   | Village Form No.7 bearing Survey No.374          | 84   |
| 14   | Village Form No.12 bearing Survey No.374         | 85   |
| 15   | Registered sale deed No.1026/2012                | 86   |
| 16   | Registered sale deed No.1027/2012                | 87   |

|    |                                                  |     |
|----|--------------------------------------------------|-----|
| 17 | Village Form No.6 regarding entry No.4104        | 88  |
| 18 | Village Form No.6 regarding entry No.4105        | 89  |
| 19 | Village Form No.7 bearing Survey No.360 paiki 2  | 90  |
| 20 | Village Form No.12 bearing Survey No.360 paiki 2 | 91  |
| 21 | Village Form No.8-A bearing Account No.650       | 92  |
| 22 | Village Form No.7 bearing Survey No.374          | 93  |
| 23 | Village Form No.12 bearing Survey No.374         | 94  |
| 24 | Village Form No.8-A bearing Account No.668       | 95  |
| 25 | Village Form No.6 regarding entry No.4107        | 96  |
| 26 | Order of R.T.S. No.108/13                        | 97  |
| 27 | Village Form No.6 regarding entry No.4121        | 98  |
| 28 | Village Form No.6 regarding entry No.4171        | 99  |
| 29 | Complaint filed by the defendant No.1            | 100 |
| 30 | Reply of Chief Minister Office                   | 101 |
| 31 | Notice of Collector Office                       | 102 |
| 32 | Reply of Collector Office                        | 103 |
| 33 | Complaint filed before Prantij Police Station    | 104 |
| 34 | Village Form No.8-A bearing Account No.768       | 105 |
| 35 | Village Form No.7 bearing Re-Survey No.517       | 106 |
| 36 | Village Form No.12 bearing Re-Survey No.517      | 107 |
| 37 | Village Form No.8-A bearing Account No.750       | 108 |
| 38 | Village Form No.7 bearing Re-Survey No.513       | 109 |
| 39 | Village Form No.12 bearing Re-Survey No.513      | 110 |
| 40 | Registered sale deed No.221/2015                 | 111 |
| 41 | Registered sale deed No.222/2015                 | 112 |
| 42 | Village Form No.6 regarding entry No.4336        | 113 |
| 43 | Village Form No.6 regarding entry No.4337        | 114 |
| 44 | Village Form No.6 regarding entry No.4336        | 115 |
| 45 | Village Form No.6 regarding entry No.4337        | 116 |
| 46 | Map of Amodara village                           | 117 |

|    |                                            |     |
|----|--------------------------------------------|-----|
| 47 | Village Form No.6 regarding entry No.4601  | 133 |
| 48 | Village Form No.7 bearing Survey No.513    | 134 |
| 49 | Village Form No.12 bearing Survey No.513   | 135 |
| 50 | Village Form No.7 bearing Survey No.517    | 136 |
| 51 | Village Form No.12 bearing Survey No.517   | 137 |
| 52 | Village Form No.8-A bearing Account No.928 | 138 |

5. That the plaintiffs have filed their closing pursis vide Exh.110.

6. To prove the present suit, defendant Nos. 2 to 6 have produced following oral as well as documentary evidence.

**:: Oral evidence ::**

| Nos. | Particulars                                                         | Exh. |
|------|---------------------------------------------------------------------|------|
| 1.   | Affidavit in chief of defendant No. 3 - Bharatbhai Bhikhabhai Patel | 144  |

**:: Documentary evidence ::**

| Nos. | Particulars                                                                   | Exh. |
|------|-------------------------------------------------------------------------------|------|
| 1    | Order of Deputy Collector, Prantij in R.T.S./Prantij/Appeal/Case No. 134/2015 | 139  |
| 2    | Order of Deputy Collector, Prantij in R.T.S./Appeal/Dasu/Case No.26/13        | 140  |
| 3    | Order of Collector, Sabarkantha in R.T.S./Revision/Case No. 147/2013          | 141  |

7. To prove the present suit, defendant No. 7 has produced following oral as well as documentary evidence.

**:: Oral evidence ::**

| Nos. | Particulars                                                         | Exh. |
|------|---------------------------------------------------------------------|------|
| 1.   | Affidavit in chief of defendant No. 7 - Bharatbhai Mathurbhai Patel | 146  |

**:: Documentary evidence ::**

| Nos. | Particulars                                | Exh. |
|------|--------------------------------------------|------|
| 1    | Village Form No.6 regarding entry No.4601  | 148  |
| 2    | Village Form No.7/12 bearing Survey No.513 | 149  |
| 3    | Village Form No.8-A bearing Account No.928 | 150  |
| 4    | Vighoti/tax receipt                        | 151  |

8. Defendant Nos.2 to 7 have filed their closing pursis vide Exh.152.

9. From the above pleadings and facts, the following issues have been framed at Exh.52 by my predecessor in vernacular language which are arisen for the determination of this suit.

**:: ISSUES ::**

- (૧) શું વાદીઓ સાબીત કરે છે કે, દાવા અરજી પારા-૩મા જણાવેલ વિગત વર્ણનવાળી મીલકત (જેનો હવે પછી થી દાવાવાળી મીલકત એ રીતે ઉલ્લેખ કરેલ છે) તે મીલકત વાદીઓની વડીલો પાર્જીત મીલકત છે અને તેમા વાદીઓનો વણ વહેંચાયેલ હિસ્સો છે ?
- (૨) શું વાદીઓ સાબીત કરે છે કે, દાવાવાળી મીલકત આ કામના પ્રતિવાદી નં.૧ના એ પ્રતિવાદી નં.૨, ડનાઓને વિના હકકે અને બીન અવેજી ગેરકાયદેસર રજીસ્ટર વેચાણ દસ્તાવેજથી વેચાણ આપેલ છે ?
- (૩) શું વાદીઓ સાબીત કરે છે કે, પ્રતિવાદીઓ નં.૨, ડનાઓએ પ્રતિવાદી નં.૪ની તરફેણમા દાવાવાળી મીલકતનો જે રજીસ્ટર વેચાણ દસ્તાવેજ કરી આપેલ તે ગેરકાયદેસર છે ?
- (૪) શું પ્રતિવાદી નં. ૧ સાબીત કરે છે કે, પ્રતિવાદીઓ નં. ૨, ૩ નાઓએ તેઓની સાથે છેતરપીંડી કરી, ગેરકાયદેસર રીતે દાવાવાળી મીલકતનો રજીસ્ટર વેચાણ દસ્તાવેજ તેમની

પાસેથી કરાવી લીધેલ ?

(૫) શું વાદીઓ સાબીત કરે છે કે, દાવા અબજીમાં માંગ્યા મુજબની દાદ મેળવવા હકકદાર છે ?

(૬) શું હુકમ અને હુકમનામું ?

10. My findings on the above mentioned issues are as under :

1. In the negative.
2. In the negative.
3. In the negative.
4. In the negative.
5. In the negative.
6. As per final order.

### **:: REASONS ::**

#### **Issue Nos.1 to 5 :**

11. All the above issues are interrelated and interconnected, therefore, to avoid repetition of the facts & reasons, I have thought it proper to discuss & decide them together.

12. I have duly read and considered the record of the present suit. I have duly considered the oral as well as documentary evidence produced on record. I heard learned advocates of the respective parties.

13. Plaintiffs have filed their written arguments vide Exh.154 which

are duly read and considered by this Court. Defendant Nos.2 to 7 have filed their written arguments vide Exh.155 and relied upon the following case laws which are duly read and considered by this Court :

(1) *Hon'ble Supreme Court 2021 (0) AIJEL-SC 68121 Beereddy Dasaratharami Reddy Versus V. Manjunath*

*Joint Hindu Property right of Karta - suit for specific performance - existence of legal necessity depends upon facts of each case - a coparcener who has right to claim a share in joint Hindu family estate cannot seek injunction against Karta restraining him from dealing with or entering into a transaction from sale of joint Hindu family property - Karta enjoys wide discretion in his decision over existence of legal necessity.*

*(a) Specific Relief Act, 1963 - S. 20 - Joint Hindu Property - right of Karta - suit for specific performance of agreement to sell - Karta of Joint Hindu Family executed agreement to sell on account of legal necessity -need for funds is duly reflected and so stated in agreement to sell which states that executants were in need of funds to meet domestic necessities and, therefore, had agreed to sell suit property -*

*held, existence of legal necessity depends upon facts of each case - once factum of existence of legal necessity stood proved, then, no co-coparcener (son) has a right to challenge the sale made by Karta of his family - a coparcener who has right to claim a share in joint Hindu family estate cannot seek injunction against Karta restraining him from dealing with or entering into a transaction from sale of joint Hindu family property, albeit post alienation has a right to challenge alienation if same is not for legal necessity or for betterment of estate - Karta enjoys wide discretion in his decision over existence of legal necessity - therefore, signatures of son of Karta on agreement to sell were not required - Karta received Rs. 4 lakhs as advance from vendee - need for funds is duly reflected in agreement to sell - therefore, Karta along with co-parceners would be bound to execute sale deed in favour of vendee - physical possession of property would be handed over by respondents to appellant along with execution of sale deed, notwithstanding that suit property has been sold to a third person during pendency of present appeal - appeal allowed.*

(2) *Hon'ble Supreme Court 2018 (0) AIJEL-SC 62644 Kehar Singh Versus nachittar Kaur*

Hindu law - sale of ancestral property by Karta - existence of legal necessity - sale challenged by plaintiff son - whether High Court was justified in holding that the sale made by Karta was for legal necessity of the family and therefore, binding on the plaintiff - held, it has come in evidence that family owed two debts and required money to make improvement in agricultural land mentioned in sale deeds and also stood proved by evidence - a Karta of the family, had every right to sell the suit land be longing to family to discharge the debt liability and spend some money to make improvement in agriculture land for the maintenance of his family - these facts were also mentioned in the sale deed - Karta had discharged his burden successfully by proving existence of legal necessity for sale of suit land - Test laid down in Hindu Law as explained by Mulla in Article 254(2) read with Article 241(a) and (g), stood satisfied - once the factum of existence of legal necessity stood proved, then, no co-coparcener (son) has a right to challenge the sale made by the Karta of his family -

reasoning and the conclusion arrived at by High Court upheld - appeal dismissed.

14. To prove all the issues, the plaintiff No. 2 - Patel Jigneshkumar Babubhai has produced affidavit in chief at Exh.65. I have carefully gone through the facts of this suit and other documentary evidence. The plaintiff No. 2 - Patel Jigneshkumar Babubhai has more or less reproduced the facts stated in his affidavit in chief and hence for the sake of brevity and to avoid repetition, the said facts are not reproduced here. Ld. Adv. Mr. P. J. Soni on behalf of defendant Nos. 2 to 7 has cross-examined the plaintiff No. 2 - Patel Jigneshkumar Babubhai at Exh.65 wherein plaintiff No. 2 - Patel Jigneshkumar Babubhai has stated that it is true that I filed a claim in Himmatnagar Court on 07/04/2015 with Special Suit No. 10/2015 and then an order was passed to transfer this claim to the Prantij Court on 18/11/2017. It is true that the sale deed of the survey numbers mentioned in para 3-A of my claim application was executed on 20/09/2012. I am not aware of any RTS proceedings whether I or my father had done any such in the year 2013-2014. It is true that the sale deed of the survey numbers mentioned in para 3-B of my claim application was executed by defendant Nos. 2 and 3 to defendant

No. 4 on 24/02/2015. It is true that no action was taken in relation to these documents till the document of the year 2012 and the document of 2015. It is true that I have not taken any legal action for 2 years 6 months and 18 days from the first document.

It is true that defendant No.1 is my father and plaintiff No.1 is my mother and plaintiff No.3 is my sister. We have good relations with each other. My father lives with us. It is true that in the year 2012, our financial condition was not good and we were in need of money. It is true that after executing the sale deed, my father did not take any action to declare the sale deed null and void or to declare the sale deed invalid. It is true that I have not taken any legal action like suit or notice against defendant No.1 to get a share of the consideration amount of the disputed land sold by my father as ancestral property. It is true that if any document is to be executed, it should be registered in Sub-Registrar. It is true that I have submitted 7/12, 8/A of the disputed land vide Exh.80 to Exh.85 on 13/03/2018. It is true that these documents are copies of 27/09/2012. It is true that no revenue record like 7/12, 8/A have been produced on 13/03/2018. It is true that certified copies of the sale deeds of the disputed land vide Exh.86 and Exh.87 have been produced in the court. It is true that this document has my father's photo and thumb

impression. My father has studied up to Old S.S.C. and can read and write. It is true that the registered sale deed is written in capital letters vide Exh.86. I do not know whether I have submitted the photos of the land in it ? There is my father's photo in the document but this signature is not his. I do not know whether my father's signature, thumb impression and photo are online in the document ? I do not know whether Alpeshbhai Jayarambhai Desai was a witness in it ? The other witness is Parmar Vishnuji Shankarji who is from my village and I know him.

It is true that the registered sale deed is written in big letters vide Exh.87. I do not know whether I have submitted the photos of the land in it ? There is a photo of my father in the document but this signature is not his. I do not know whether my father's signature thumb and photo are online in the document? I do not know whether Alpeshbhai Jayarambhai Desai was a witness in it? The second witness is Parmar Vishnuji Shankarji who is from my village and I know him. It is true that from the first document till today, we have filed RTS as well as applications.

Thereafter question has been asked that has your father filed any application or take action in any RTS. Proceeding or application after the document vide Exh.85 and Exh. 86 in which the signature

in the document is not his ? Yes.

It is true that my father has not taken any legal action till date regarding the absence of his signature in documents vide Exh.85 and Exh. 86. If my father took any legal action, he would not ask me or take my legal advice. It is true that the revenue record from Exh.88 to Exh.95 is in the name of defendant Nos. 2 and 3. It is true that the RTS Appeal vide Exh.97 bearing Dasu Case No. 108/2013 was filed by my father before the Deputy Collector, the certified copy of which I have submitted. I came to know about this order after seeing the record of 7/12. The copy I brought is the copy informing Babubhai Venabhai Patel of the order passed by the Deputy Collector. It is true that if we demand any certified copy, the application date and the date of preparation of the copy should be written. It is true that there is no such date in Exh.97. It is true that Exh.100, Exh.101, Exh.102, Exh.103 & Exh.104 belongs to my father.

Thereafter question has been asked that documents No. 100 to No. 104 belong to Babubhai Venabhai Patel, so where did they come from to you? These documents were given to me by my father.

My father went to the Collector for submission of Exh.103. The

Collector has issued an order vide Exh.103. It is true that in Exh.103, the Collector, Sabarkantha stated that, "In accordance with which the Deputy Collector, Prantij conducted an investigation and heard you personally, but no accurate or substantiated submission was made by you within the period. According to the details of the report and records submitted here, the land of 1-05-22 of Block No.360/2 within the boundary of Moje-Amodara, Ta. Prantij has been sold with registered sale deed No. 1027 on 20/09/2012 and the land of 0-48-56 Heq.Are.Sqr.Mtr. of Block No. 374 has been sold with registered sale deed No. 4104 on 20/09/2012. It is mentioned in the document that you have accepted the sufficient amount of consideration." It is true that my father has not taken any legal action against the order dated 19/08/2014.

It is true that the revenue records of the agricultural lands of the disputed survey numbers belong to the defendants. It is true that it is mentioned in the documents that consideration amount was received. The witness voluntarily states that the amount was not received. The revenue records of defendants Nos. 2 and 3 have been produced vide Exh.105 to Exh.110, in which the names of Bharatbhai Bhikhabhai and Panchal Vasantbhai Nathabhai are mentioned as the account holders and occupants. It is true that the

defendants Nos. 2 and 3 sold the disputed land to defendant No.4 through sale deeds, which we have produced vide Exh.111 and Exh.112. It is true that as of today, the defendant No.4 has passed away and his heirs, defendant No. 7, are the owners of the cultivable lands of the disputed survey numbers. For this purpose, I have filed a revised claim application in the name of the defendant No. 7 in the said court in December-2024. It is true that no claim has been claimed against the defendant No. 7 in the revised claim application. It is true that RTS proceedings were conducted in respect of Exh.115 and Exh.116. It is true that in my objection application vide Exh.115 and Exh.116, no details have been mentioned that there is forged signature of my father in the documents vide Exh.85 and Exh.86. It is true that in accordance with my objection, an appeal was filed before the Deputy Collector Prantij vide RTS/Prantij/Appeal Case No. 134/2015. It is true that the details given by us in this appeal are the same details given in the present claim. It is true that our dispute application was rejected by the Deputy Collector's Court. I do not know whether my father appealed from R.T.S./Appeal/Dasu/Case No. 26/2002 regarding entry No. 4105 of Village Form No. 6 of Amodara village ? I do not know whether the appeal he made was also rejected? I have no information about

mark 50/3. My father appealed R.T.S. Revision Case No. 147/2013 and I do not know who my father retained as an advocate in that appeal. I do not know whether my father stated in that appeal that he did not receive the amount of compensation as per the market price?

Thereafter question has been asked that Babubhai Venabhai Patel submitted before the Collector in RTS Revision No. 147/2013 that, "The disputant has filed a claim and injunction application in the court of Principal Senior Civil Judge, Himmatnagar, is it correct or incorrect ?" That detail is correct.

It is true that the RTS revision filed by my father, which is produced vide mark 50/4, has been rejected by the Collector. It is true that in that order, the Collector, in pursuance of this submission, ordered that the disputant has also filed a claim in the civil court, and the parties shall implement the decision as per the order of the Court. I was aware of the proceedings of the Collector of this RTS. Whether my father appealed against the order of the Collector? I do not know that I have not even asked. It is true that no claim has been filed by my father against the order dated 12/10/2015. It is true that in the reason for my claim, the Collector has mentioned that I will take action in the Civil Court, therefore I have filed the claim

which is not mentioned. We have submitted the abstracts of 7/12, 8A and entry No.4601 of the disputed survey numbers vide Mark 126/1 to Mark 126/9 which have given Exh.133 to Exh.138. It is true that the appeals vide Mark 50/5 and Mark 50/6 have been filed from our office.

15. That the defendant 3 - Bharatbhai Bhikhabhai Patel has produced his affidavit in chief vide Exh.144. Ld. Adv. Mr. B. M. Shukla on behalf of the plaintiffs has cross-examined the defendant 3 - Bharatbhai Bhikhabhai Patel vide Exh.144 wherein he has stated that I am engaged in the business of agriculture and animal husbandry. In the year 2004, I was engaged in the business of buying and selling plots. I know the defendant No. 1 of this work as a son-in-law of my society and our village. The fact that the agricultural land of the defendant No. 1 is to be sold was stated by the defendant No. 1 and his family. I am aware that when the agricultural land is to be purchased, 7/12 and title of the land have to be verified. At the time of purchasing the said land, Village Form No. 7/12 seen and it was in the name of the defendant No. 1. The witness voluntarily states that the records regarding how the said land was acquired by the defendant No. 1 was not verified but he knew that because he belonged to the society. Before the said land

deal, Babubhai and his family needed money to sell the land. It is true that when they saw 7/12 of the said land, there was no encumbrance registered on that land. It is true that if any farmer faces financial need, he gets a loan on the land. It is true that I and my partner Vasantbhai Panchal sat on our stable to make the deal of the said land. In the said deal, the total price of the land was fixed at Rs. 2 lakhs. These Rs. 2 lakhs were given to the defendant No. 1 in cash.

It is true that at the time of the sale deed of the said land, the government value was higher than the transaction value of the said land. The witness voluntarily says that the market value of the land was lower than the government value. The land I kept is an irrigated land. I do not know the witnesses of the deed, Vishnuji and Desai Alpeshbhai, but they came with defendant No.1. I do not know whether these two witnesses of the deed are working as land brokers or not. I do not know whether the land in the deed was purchased by defendant No. 1 or inherited because I had seen only 7/12. It is true that the present plaintiffs, who are the heirs of the defendant No. 1, have not signed the said registered sale deed as witnesses or as conforming parties. The witness states that the plaintiffs have given their verbal consent. I have no evidence that the

plaintiffs gave their verbal consent. It is true that the land sold by the registered sale deed was sold to the defendant No. 4 after three years i.e. in the year 2015.

16. That the defendant 7 - Bharatbhai Mathurbhai Patel has produced his affidavit in chief vide Exh.146. Ld. Adv. Mr. B. M. Shukla on behalf of the plaintiffs has cross-examined the defendant 3 - Bharatbhai Mathurbhai Patel vide Exh.146 wherein he has stated that it is true that we know the defendant Nos. 2, 3 of this work well. Defendant No 3 belongs to our community. It is true that we are witnesses to the sale deed in which defendant Nos. 2, 3 sold the disputed land to my father. I am not aware that there were any disputes regarding the disputed land sold by the defendant No. 1 to the defendant Nos. 2, 3, and my father was also not aware of this. It is true that the registered sale deed in favour of my father was executed in 2015. I am not aware of this fact that at the time of our document, there were any disputes with the Revenue regarding the entries in the previous sale deed made by defendant No.1 ? I am not aware of this fact that statement of my father has taken by police station regarding to the complaint filed by Babubhai regarding this document ? I do not know whether my father was aware of the dispute regarding the previous sale deed executed by defendant No.

1 at the time of this sale deed.

17. **Order - XIV Rule - 2 of C.P.C.**

***Provides for disposal of a suit on a preliminary issue and under sub-Rule (2) of Rule 2, if the court is of opinion that a case or part thereof can be disposed of on an issue of law only, it may try that issue first, in case it relates to jurisdiction of the court or bar to entertaining.***

Hence, as discussed above, considering **Order - XIV Rule - 2 of C.P.C.**, before discussing the other issues, it is necessary to decide issue preliminary issues for conclusion of the present suit. Considering the facts of the present suit, plaintiffs have filed the present suit for declaration of the registered sale deed No. 1026/12 & 1027/12 dtd. 20/09/2012 to be null and void and illegal. That after carefully considering the facts of the plaint and considering the documentary evidence i.e. the above said sale deeds produced vide Exh.86 & 87, it clearly transpires that plaintiffs are not party in the register sale deeds produced vide Exh.86 & 87. Hence, this Court is of the opinion that this suit is barred by mis joinder of party.

Hence, this Court has relied upon the following case laws and considered the law points as under :

## **Whether multiple sale deeds can be cancelled in one suit**

### **Multiple Sale Deeds Cancellation in One Suit**

#### **General Principle**

- A suit for cancellation of multiple sale deeds can be problematic due to the potential for misjoinder of causes of action. The Code of Civil Procedure (CPC) provides guidelines on how causes of action must be related to be pursued in a single suit.

#### **Misjoinder of Causes of Action**

- The courts have held that if a plaintiff challenges multiple sale deeds that are executed in favor of different vendees on different dates and concerning different portions of land, this may amount to misjoinder of causes of action. In such cases, the court may dismiss the suit and allow the plaintiff to pursue only one sale deed at a time **Inderpal Singh VS Jaspal Singh - Punjab and Haryana (2005)**.

#### **Specific Case Law**

- In a notable case, the court ruled that a plaintiff could not challenge multiple sale deeds in a single suit due to misjoinder, emphasizing that each sale deed represents a separate transaction and cause of action **Inderpal Singh VS Jaspal Singh - Punjab and Haryana (2005)**.
- The Supreme Court has clarified that suits for cancellation of voidable sale deeds do not abate under Section 5 of the U.P.

Consolidation of Holdings Act, indicating that such suits can be maintained even if multiple deeds are involved, provided they are properly framed **Ram Nath VS Munna - Allahabad (1975)**.

**1. Multiple Sale Deeds:**

2. Challenging multiple sale deeds in one suit can lead to dismissal based on misjoinder of causes of action **Inderpal Singh VS Jaspal Singh - Punjab and Haryana (2005)**.
3. Each sale deed must be treated as a separate cause of action unless they are closely related in terms of the parties involved and the subject matter.

*While it is legally possible to seek the cancellation of multiple sale deeds in one suit, practical considerations regarding misjoinder and the nature of the deeds (void vs. voidable) suggest that it may be more effective to pursue them individually. Careful legal strategy and adherence to procedural rules will enhance the likelihood of a favorable outcome. **Inderpal Singh VS Jaspal Singh - Punjab and Haryana (2005) Ram Nath VS Munna - Allahabad (1975)**]*

**Third Party Rights:**

1. A third party, who is neither a party to the original sale deed nor legally bound by it, does not have the standing to seek cancellation

of that deed. However, they may seek a declaration that the deed is not binding on them.

***U. Vijaya Kumar VS Malini V. Rao - Karnataka U. Vijaya Kumar VS Malini V. Rao - Current Civil Cases.***

If a third party claims rights over the property based on a sale deed, they must establish their claim through appropriate legal channels, such as proving ownership or asserting adverse possession

***Muddasani Venkata Narsaiah (D) Th. Lrs. VS Muddasani Sarojana - Supreme Court.***

18. As discussed above, considering the facts, considering the above discussion and considering the above case laws, this Court is of the opinion that the present plaintiffs are third party hence the present suit is barred by mis joinder of party. In conclusion, a third party cannot unilaterally cancel a sale deed; they must follow legal procedures, including filing a civil suit, to challenge the validity of the deed based on specific grounds such as fraud or lack of authority. If a third party claims rights over the property based on a sale deed, they must establish their claim through appropriate legal channels, such as proving ownership or asserting adverse possession. Therefore, plaintiffs have failed to prove their facts by producing oral

as well as documentary evidence. Further, plaintiffs have not seek any declaration.

19. Ld. Adv. Mr. P. J. Soni on behalf of defendant Nos. 2 to 7 has cross-examined the plaintiff No. 2 - Patel Jigneshkumar Babubhai at Exh.65 wherein plaintiff No. 2 - Patel Jigneshkumar Babubhai has stated that it is true that I am not aware of any RTS proceedings whether I or my father had filed any such in the year 2013-2014. It is true that I have not taken any legal action for 2 years 6 months and 18 days from the first document. It is true that after executing the sale deed, my father did not take any action to declare the sale deed null and void or to declare the sale deed invalid. It is true that I have not taken any legal action like suit or notice against defendant No.1 to get a share of the consideration amount of the disputed land sold by my father as ancestral property. It is true that certified copies of the sale deeds of the disputed land vide Exh.86 and Exh.87 have been produced in the court. It is true that this document has my father's photo and thumb impression. It is true that my father has not taken any legal action till date regarding the absence of his signature in documents vide Exh.85 and Exh. 86. The Collector has issued an order vide Exh.103. It is true that in Exh.103, the

Collector, Sabarkantha stated that, "In accordance with which the Deputy Collector, Prantij conducted an investigation and heard you personally, but no accurate or substantiated submission was made by you within the period. According to the details of the report and records submitted here, the land of 1-05-22 of Block No.360/2 within the boundary of Moje-Amodara, Ta. Prantij has been sold with registered sale deed No. 1027 on 20/09/2012 and the land of 0-48-56 Heq.Are.Sqr.Mtr. of Block No. 374 has been sold with registered sale deed No. 4104 on 20/09/2012. It is mentioned in the document that you have accepted the sufficient amount of consideration." It is true that my father has not taken any legal action against the order dated 19/08/2014. It is true that in my objection application vide Exh.115 and Exh.116, no details have been mentioned that there is forged signature of my father in the documents vide Exh.85 and Exh.86. It is true that in accordance with my objection, an appeal was filed before the Deputy Collector Prantij vide RTS/Prantij/Appeal Case No. 134/2015. It is true that the details given by us in this appeal are the same details given in the present claim. It is true that our dispute application was rejected by the Deputy Collector's Court. I do not know whether my father stated in that appeal that he did not receive the amount of compensation as per the market price? It is

true that the RTS revision filed by my father, which is produced vide mark 50/4, has been rejected by the Collector. Whether my father appealed against the order of the Collector? I do not know that I have not even asked.

Hence, considering the cross-examination of the the plaintiff No. 2 - Patel Jigneshkumar Babubhai vide Exh.65, it clearly transpires that father of the plaintiff i.e. defendant No.1 and the plaintiffs have not taken legal action against the defendants regarding forged signature and consideration amount of registered sale deed. Further, plaintiff No.2 has admitted that I am not aware of any RTS proceedings whether I or my father had filed any such in the year 2013-2014. I have not taken any legal action for 2 years 6 months and 18 days from the first document. After executing the sale deed, my father did not take any action to declare the sale deed null and void or to declare the sale deed invalid. I have not taken any legal action like suit or notice against defendant No.1 to get a share of the consideration amount of the disputed land sold by my father as ancestral property.

20. Considering the documentary evidence vide Exh.98 & Exh.99 wherein it is clearly mentioned that Deputy Collector, Prantij has confirmed the entry Nos.4104 & 4105 regarding the disputed

registered sale deeds. Further, the plaintiffs have not filed any appeal before higher authority. The plaintiffs have also not cross-examined witnesses of the disputed registered sale deeds, Mamlatdar, Collector, Sabarkantha and Additional Secretary, Department of Revenue (Disputes), Ahmedabad to prove that that the above mentioned registered sale deeds produced vide Exh.86 & Exh.87 are illegal and void abinitio. Further, the plaintiffs have not produced any oral as well as documentary evidence to prove that that the above mentioned registered sale deeds produced vide Exh.86 & Exh.87 are illegal and void abinitio.

21. Considering the documentary evidence produced vide Exh.86 & Exh.87 - disputed registered sale deeds, the disputed registered sale deeds are registered as per the Registration Act, 1908. Considering the Section 17 of the Registration Act, 1908, registration of the documents relating to immovable property is compulsory. Further, plaintiffs have not examined any officer like Registrar or any witnesses to prove that the above said registered sale deeds are illegal, null and void. Hence, *considering the provisions of the Registration Act, 1908, the disputed registered sale deeds produced vide Exh.86 & Exh.87 are legal in the eye of law.* Therefore, herein, it is necessary to reproduce Section 49 and Section 17 of the

Registration Act, 1908 which are as under :

**Section 49 in The Registration Act, 1908**

Clause (a) of section 49 provides that an unregistered document shall not affect any immovable property comprised therein, if such document is required to be registered by any law. The decisions under clause (c) have uniformly laid down that the unregistered document can be adduced in evidence for any purpose other than that of affecting the immovable property.

But there has been a divergence of judicial opinion as to the extent to which evidentiary use may be made of documents which purport to affect immovable property.<sup>1</sup> In one line of cases it has been held that a covenant, such as a personal covenant in a mortgage deed, can be proved, but where the transaction is indivisible, that is to say where there is no separate evidence of the loan or payment other than the deed itself, such loan or payment cannot be proved by the documents alone.

We see no reason for maintaining this distinction as it is highly technical and gives relief to a person who has got secondary evidence while denying it to a person who has the primary evidence, namely, the document itself. Cases such as *Sambayya v. Gangayya*,<sup>2</sup> stand on a different footing, since what was sought to be enforced in that case were the rights or obligations contained in the deed which would arise only if the deed were valid. There is another line of cases which hold that an unregistered document can be used to prove matters like

the character of possession, status, acknowledgment etc.

### **Section 17 in The Registration Act, 1908**

#### **17. Documents of which registration is compulsory.**

(1)The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely, (a)instruments of gift of immovable property; (b)other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property; (c)non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and (d)leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent; (e)[ non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property:] [Inserted by Act 21 of 1929, Section 10.]

22. Hence, considering the above discussion and considering the provisions of the Registration Act, 1908, plaintiffs have failed to prove their facts by producing oral as well as documentary evidence. In the circumstances, as discussed above, considering the above discussions and considering the above sections, plaintiffs have failed to prove their facts by producing the documentary as well as oral evidence. Hence, plaintiffs have not entitled to get relief as prayed for. Therefore, I answer issue Nos. 1 to 5 are in the negative, hence, under the issue No.6, I pass the following final order.

**:: ORDER ::**

- This suit is hereby rejected.
- Parties bear their own costs.
- Decree to be drawn accordingly.

Signed and pronounced in the open court today on 20<sup>th</sup> Day of August, 2025.

Place : Prantij  
Date : 20.08.2025

**( Bhargavsinh Ravsinh Solanki )**  
(Judge Code No. GJ00919)  
Principal Senior Civil Judge,  
Prantij.

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