

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 1889 of 2007**

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MUSTAFA MOHAMMAD KAPADIA (DECEASED THRU LEGAL HEIRS) &
ORS.

Versus

NASHRUDDIN GULAM MAHMMAD

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Appearance:

DECEASED LITIGANT for the Appellant(s) No. 1

MR SHIVANG M SHAH(5916) for the Appellant(s) No. 1,1.1,1.2,1.3

MR DAKSHESH MEHTA(2430) for the Defendant(s) No. 1

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CORAM: ADDITIONAL REGISTRAR (JUDICIAL)

Date : 23/04/2024

ORAL ORDER

1. Heard learned advocate Mr. Dakshesh Mehta for the respondent. Perused the withdrawal of appearance note dated 09.04.2024 addressed to the office along with communication dated 29.02.2024 addressed to the respondent along with the copies postal slips and the copies of online status reports of Postal Department. Perused the office note dated 15.04.2024 pertaining to the same.
2. The learned advocate for the respondent has submitted the withdrawal of appearance addressed to this office dated 09.04.2024 for withdrawal of his appearance on behalf of the respondent and for deleting his name from the cause title of the main petition. The said withdrawal of appearance is annexed with the communication dated 29.02.2024 addressed to the respondent along with the copies postal slips and the copies of online status reports of Postal

Department. As per the withdrawal of appearance and copies of online status reports of Postal Department, the respondent has remained unserved/undelivered as “No such person in the address”.

3. The learned advocate has submitted that the said communication addressed to the respondent is returned back due to the reason that the respondent has left the original premises on the address mentioned in the cause title of the petition. The learned advocate has further submitted that the respondent is duty bound to submit his new address either to his learned advocate or on the record of the Court for due service of notice to him. The learned advocate has further submitted that he has performed his part of duty to make due attempts for service of communication dated 29.02.2024 to the respondent. Now, it is the turn of the respondent to furnish the new address on record. It prima facie appears that the learned advocate has tried his best for due service of communication to his client i.e. the respondent through RPAD in compliance of Rule 133 of the Gujarat High Court Rules, 1993 on the address available on record. The learned advocate has also given oral undertaking to the effect that he will give back all the papers pertaining to the matter as well as NOC on the new Vakalatnama as and when be demanded by the respondent.
4. In view of the aforesaid submissions and on perusal of record, the withdrawal of appearance of learned advocate Mr. Dakshesh Mehta dated 09.04.2024 and office note dated 15.04.2024 pertaining to the same are accepted herewith and disposed of accordingly. The

Office is further directed to remove the name of learned advocate Mr. Dakshesh Mehta as an advocate of the respondent from the cause title of captioned matter. As a consequential effect, the office is directed to issue advocate notice to the respondent making it returnable within 4 weeks since the matter is critically old.

(M. K. UPADHYAY)

ADDITIONAL REGISTRAR (JUDICIAL)

SSVohra