

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2570 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE DEVAN M. DESAI**

Approved for Reporting	Yes	No

COSMOS DEVELOPMENT CORPORATION & ORS.**Versus****HEIRS OF DECEASED AHMEDALI MIRSAHEBMIYA SAIYED & ORS.**

Appearance:

MR MK VAKHARIA(1483) for the Petitioner(s) No. 1,2,2.1,2.2,2.3,2.4,3,4

MR VISHAL B MEHTA(5319) for the Respondent(s) No. 13.1

NOTICE SERVED for the Respondent(s) No. 10,6

NOTICE UNSERVED for the Respondent(s) No.

11,1.1,1.2,12.1,12.2,12.3,12.4,12.5,12.6,1.3,13.2,13.3,13.4,13.5,13.6,14,1.4,1.5,15.3,15.4,16,1.6,1.7,1.8,1.9,2.1,2.10,2.2,2.3,2.4,2.5,2.6,2.7,2.8,2.9,3,4,5,8,9

UNSERVED EXPIRED (N) for the Respondent(s) No. 7

CORAM: HONOURABLE MR. JUSTICE DEVAN M. DESAI**Date : 16/04/2026****JUDGMENT**

1. The present petition is filed by the petitioners under

Articles 14, 19, 21, 226 and 227 of the Constitution of India,

1950, praying for following reliefs:-

"A. YOUR LORDSHIPS may be pleased to admit and allow the present petition;

B. YOUR LORDSHIPS may be pleased to issue writ of Certiorari or any other appropriate writ, order or direction for quashing and setting aside the impugned Order dated 29.11.2025 passed below Exhibit 821 produced at Ann. A as well as Order dated 01.12.2025 passed below Exhibit 828 produced at Ann. C and Order dated 02.12.2025

passed below Exhibit 1 produced at Ann. E passed by the Hon'ble City Civil Judge, Court No. 2, City Civil Court, Ahmedabad in Civil Suit No. 1303 of 1992 and further be pleased to pass appropriate and necessary Order directing to reopen the stage of cross examination either through video conferencing or any other appropriate mode as directed by this Hon'ble Court as well as this Hon'ble Court may be pleased to pass appropriate and necessary Order directing to reopen the stage of evidence of original defendant nos. 1, 3 and 4.

C. Pending admission, hearing and final disposal of this petition, Your Lordships may be pleased to stay the execution, operation and implementation of all the impugned Orders at Ann. A, C & E as well as further proceedings of Civil Suit No. 1303 of 1992 till final disposal of present petition in the interest of justice.

D. YOUR LORDSHIPS may be pleased to grant ex parte ad interim relief in terms of Para 8(C) in the interest of justice.

E. YOUR LORDSHIPS may be pleased to grant such other and further orders, directions or reliefs as may be deem fit in the facts and circumstances and in the interest of justice."

2. Heard learned advocate Mr. M. K. Vakharia for the petitioners appearing on hybrid mode. Learned advocate for the respondent has remained absent.

3. It is the contention of learned advocate for the petitioners that the defendant No. 4, at the relevant point of time, was at

Cyprus for further studies and, therefore, a request was made vide Exhibit 821, that his oral deposition be recorded through Video Conference mode. The said application came to be rejected by the learned trial Court on 29.11.2025. Thereafter, on 02.12.2025, the right to lead evidence of defendant Nos. 1,3, and 4 came to be closed by the learned trial Court below Exhibit 1.

3.1. It is contended by learned advocate for the petitioners that, as on today, defendant No. 4 has come down to India and he is now available for getting his evidence recorded. It is therefore submitted that considering the controversy existed in the suit proceedings, in the interest of justice, the petitioners may be given permission to apply afresh to reopen the stage of filing examination-in-chief together with documents. And the learned trial Court be directed to decide the application afresh after hearing both the parties.

4. Having considered the submissions canvassed by learned

advocate for the petitioners and upon perusal of the orders which have been assailed by the petitioners in the present petition, it appears that the application vide Exhibit 821 seeking permission by defendant No. 4 to permit him to lead evidence through Video Conference mode came to be rejected on 29.11.2025. Thereafter, on 01.12.2025, below Exhibit 828, the learned trial Court rejected the application for adjournment and closed the side of defendant Nos. 1,3 and 4 to lead evidence vide order dated 02.12.2025.

4.1. The core contention of learned advocate for the petitioners is that at the relevant point of time, defendant No.4 was not available in India and was studying at Cyprus. However, as on today defendant No. 4 is very much available in India and he wishes to lead evidence both oral as well as documentary. The request which has been made by learned advocate for the petitioners that the petitioners may be permitted to apply afresh to reopen the stage to produce

documents as well as to file an affidavit in lieu of examination-in-chief sounds reasonable.

4.2. Therefore, in the interest of justice, the present petition is disposed of with a direction that petitioners herein are permitted to make necessary application to reopen the stage to lead evidence both oral as well as documentary. Upon such request being made by the petitioners, the learned trial Court shall decide the application on merits after hearing both the sides. It is needless to observe that while deciding the application, the learned trial Court shall not be influenced by the orders dated 29.11.2025 and 01.12.2025 and decide application on its own merits and as per law.

5. With these observations, the present petition is disposed of accordingly. No order as to costs. Notice is discharged.

(D. M. DESAI,J)

SHIVANI SHUKLA