

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2778 of 2022**

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VIJAYBHAI RAMANBHAI

Versus

PRATULBHAI ARVINDBHAI PATEL

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Appearance:

MR MEHUL S. SHAH, SR ADVOCATE with JENIL M SHAH(7840) for
the Petitioner(s) No. 1,2,3,4,4.1,4.2,5,6,7,8

for the Respondent(s) No. 4

ANITA D PATEL(9389) for the Respondent(s) No. 2

MR SHALIN MEHTA, SR ADVOCATE with MR VIRAL K SALOT(3500)
for the Respondent(s) No. 1

MR.DIPAK B PATEL(3744) for the Respondent(s) No. 3

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CORAM:HONOURABLE DR. JUSTICE ASHOKKUMAR C. JOSHI**Date : 21/03/2022****ORAL ORDER**

1. Heard, Shri Mehul S. Shah, Senior Advocate, learned counsel with Mr. Jenil Shah, learned advocate for the petitioners and Shri Shalin Mehta, Senior Advocate, learned counsel with Mr. Viral Salot for the respondent No. 1 and Mr. Dipak Patel, learned advocate for the respondent Nos. 2 and 3.

2. The learned senior counsel for the petitioners drew the attention of the Court at different papers including the so-called compromise decree passed in the Lok Adalat stating that the last page of the consent terms is different to that of the first and the second page. He submitted that the respondent No. 1 presented a completely fraudulent consent terms before the learned lower Court for passing of the consent decree based on such consent terms. Accordingly, the petitioners preferred a suit challenging

the said decree, which came to be rejected under O.7 R.11 of the Civil Procedure Code, 1908 (the CPC). Accordingly, the petitioners, by this petition, have challenged the said consent decree.

2.1 In support of his case, the learned senior counsel for the petitioner submits a compilation of judgments upon which he places reliance, which is taken on record.

3. As against this, the learned senior counsel for the respondent raised preliminary objection that the learned Court below has rejected the suit not only on the ground of so-called order passed in the Lok Adalat but also on the ground of limitation against which, the remedy lies under Section 96 of the CPC as also further remedy lies by seeking recalling the order before the civil Court concerned.

4. The matter requires consideration. Issue **Notice**, returnable on **8th April 2022**. Learned advocate Mr. Viral Salot and Mr. Dipak Patel waive service for the respective parties.

5. The learned advocates for the respective parties are at liberty to produce the relevant judgments/citations which the registry shall accept and place on record.

[A. C. Joshi, J.]

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