

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 58 of 2025**

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VASHRAMBHAI SHIVABHAI & ORS.

Versus

RUPABEN SOMABHAI W/O DAHYABHAI KALABHAI NAKUM

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Appearance:

MR DHAIRYAWAN D BHATT(11817) for the Applicant(s) No.

1,10,11,12,13,14,15,16,17,18,19,2,20,21,2.1,22,2.2,22.1,22.2,22.3,2.3,2.4,2.5
2.6,3,3.1,3.2,3.3,3.4,3.5,4,5,6,7,8,9

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CORAM:HONOURABLE MR.JUSTICE SANJEEV J.THAKER

Date : 10/02/2025

ORAL ORDER

1. The present Revision Application has been filed challenging the order dated 27.11.2024 passed in Special Civil Suit No.26 of 2022 whereby the 3rd Additional Senior Civil Judge, Morbi has rejected the application filed by the applicant below Exh.11 filed under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 ['CPC', for short].

2.1 Learned advocate for the applicant has drawn attention of this Court to the plaint being Special Civil Suit No.26 of 2022 more particularly to the fact that the plaintiff, who is aged about 89 years, has filed suit claiming a right over the suit property alleging that the suit property is ancestral property and, therefore, plaintiff will have right in the said property.

2.2 Learned advocate for applicant has stated that property

originally belonged to Jerambhai Vastabhai having the only son named Laxmanbhai Jerambhai, who had two sons viz. Somabhai Laxmanbhai and Ajabhai Laxmanbhai. The plaintiff is claiming right with respect to the share that had come to Somabhai in the suit property and defendant are family members of Ajabhai. It is the case of the applicant that in the plaint nowhere it is mentioned that when the father of the plaintiff Somabhai died and / or the fact that when the plaintiff accrue any right in the property. It has been also argued that name of the predecessors of the defendant i.e. Ranchhodbhai was always there in the revenue record more particularly with respect to Entry No.1026 wherein the name of Ranchhodbhai and Ajabhai have been mentioned in the revenue record. It has also been argued that plaintiff of the suit has mentioned regarding Entry No.16910 dated 09.08.2010 and the present suit has been filed in the year 2022. In view of the said fact it has been argued that the plaint is required to be rejected under provisions of Order VII Rule 11 (a) and (d) of the CPC and the trial Court has not appreciated those facts.

3. Having heard learned advocate for the applicant and having gone through the documents produced with the plaint so also the order that has been passed by the trial Court, it is clear that the plaintiff has been right in the property however, plaintiff had not produced any document show that the plaintiff's father had any right in the property nor the father of the plaintiff had raised any claim with respect to the suit property. The fact remains that plaintiff has not mentioned when the father of the plaintiff expired and or as to how plaintiff claims over property being ancestral property. This requires consideration. Hence, **Notice** returnable on

12.03.2025. In the meantime, interim relief as sought in para:7(C) is granted till the next date of hearing.

MISHRA AMIT V.

(SANJEEV J.THAKER,J)