

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2812 of 2022****With****R/SPECIAL CIVIL APPLICATION NO. 2817 of 2022**

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JAGDIPBHAI ASHOKBHAI RAMI POA OF ASHOKBHAI DAHYABHAI RAMI
Versus
VOHRA FAKERA SAIFUDDIN

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Appearance:

MR MB PARIKH(576) for the Petitioner(s) No. 1
for the Respondent(s) No. 1

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CORAM: HONOURABLE DR. JUSTICE ASHOKKUMAR C. JOSHI**Date : 15/02/2022****COMMON ORAL ORDER**

Heard learned advocate Mr. M.B. Parikh for the petitioner through video conference.

Learned advocate for the petitioner has drawn the attention of this Court that in the present case, the so called navera is made through the illegal constructions since more-than 100 persons are suffering not only that but the learned Civil Court has rightly observed that the Nagarpalika has also taken the objections for such constructions since the original defendant is making the encroachment.

Learned advocate for the petitioner has also drawn the attention of this Court that even First Appellate Court has also believed that the further proceeding is initiated by the Nagarpalika for the navera, which is *ex facie* illegal constructions but the learned Appellate Court has failed to appreciate the case of the present petitioner and ultimately the appeal was allowed and the order of the learned Principal

Civil Judge was set aside and therefore, the petitions were filed.

Learned advocate for the petitioner has also drawn the attention of this Court about the judgment and order dated 05.04.2021 passed by the learned Principal Civil Judge, Ankla below Exh. 5 in Regular Civil Suit No. 9/2020 and also the reasons assigned by the Appellate Court in Misc. Civil Appeal No.21/2021 (in Special Civil Application No.2812 of 2022) as well as order dated 05.04.2021 passed by the learned Principal Civil Judge, Ankla below Exh. 5 in Regular Civil Suit No. 20/2020 and also the reason assigned by the Appellate Court in Misc. Civil Appeal No.22/2021 (in Special Civil Application No.2817 of 2022).

This Court has considered the averments made in the petition and also the contentions raised by the learned advocate for the petitioner and also perused the reasons assigned by both the Courts below, matter requires consideration.

Rule, returnable on 14.02.2021.

Meanwhile, interim relief in terms of para 7(C) is granted till then.

Direct service is permitted.

Registry to place the copy of this order in each matter.

(A. C. JOSHI,J)

KUMAR ALOK / 1 and 2