

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 4951 of 2018**

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DECEASED JYANTIBHAI ISHWARBHAI NARSINHDAS PATEL & ORS.

Versus

JAMNABEN HIRABHAI PATEL & ORS.

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Appearance:

DHARITRI PANCHOLI(7502) for the Petitioner(s) No. 1,1.1,1.2,2,3

MR KAMLESH S KOTAI(6150) for the Respondent(s) No. 1,2,3,4,5

NOTICE SERVED BY DS for the Respondent(s) No. 6

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CORAM: HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 13/04/2026

ORAL ORDER

1. Heard learned advocate Ms. Priyal Shah for learned advocate Ms. Dharitri Pancholi for the petitioners.

2. Learned advocate for the petitioners has submitted that petitioners being the original plaintiffs have filed the suit for a relief of declaration and permanent injunction. A declaration is sought for to the effect that the suit property be declared as 'HUF' property and further prayed for declaration that plaintiffs have undivided share in the suit property. Pending the suit, sole defendant expired. Plaintiffs were not aware about the fact of death of the defendant, therefore, application for bringing heirs of deceased-defendant could not be filed. It is further submitted

that upon getting knowledge about the death of defendant, an application for condonation of delay of 861 days came to be filed. Learned trial Court rejected the application by holding that the suit is filed for mere declaration and injunction and there is no prayer for cancellation of sale deed and if the application is allowed, plaintiffs may pray for amendment in the suit and may add a prayer of cancellation of sale deed.

3. Having considered the submissions canvassed by learned advocate for the petitioners, issue requires consideration. Hence, Rule.

RINKU MALI

(D. M. DESAI,J)