

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2722 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE DEVAN M. DESAI**

Approved for Reporting	Yes	No

MR. ATULBHAI NATVARBHAI PATEL & ORS.

Versus

JAYVADANBHAI GORDHANBHAI PATEL & ORS.

Appearance:

MS VISHWA A SHASTRI(10559) for the Petitioner(s) No. 1,2,3,4,5,6

CORAM: HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 27/03/2026

JUDGMENT

1. The present petition is filed under Articles 226 and 227 of the Constitution of India, 1950, by the petitioners - original defendant Nos.3 to 7, praying for following prayers:

"A) Be pleased to issue an appropriate writ, order or direction, directing respondents to cooperate and the learned 9th Add. Senior Civil Judge, Surat, where the proceedings are pending be directed to hear and dispose of Exh. 5 application in Special Civil Suit No. 218 of 2023 on merits in accordance with law at the earliest preferably within a period of one month from the receipt of writ of this Hon'ble Court, Annex-A"

B) Pending hearing, admission and final disposal of this petition, the Hon'ble Court may be pleased to direct the injunction application below Exh. 5 in Special Civil Suit No. 218 of 2023 be heard and disposed of on merits after

due opportunity to both the parties to the proceedings and submit the report accordingly, "Annex-A"

C) Grant such other and further reliefs as are deemed fit and proper."

2. Heard learned advocate Mr. Vishwa A Shashtri for the petitioners.
3. Learned advocate for the petitioners submitted that Special Civil Suit No. 218 of 2023 is filed by plaintiffs before the learned Principal Senior Civil Judge, Surat, for a relief of specific performance as well as permanent injunction. An application Exh. 5 under Order 39 Rule 1 and 2 of Code of Civil Procedure, 1908 (for short, the "CPC") was also submitted along with the plaint, seeking prayer for temporary injunction restraining defendants from selling or transferring the suit property. Pending suit.
4. Learned advocate for the petitioners further submitted that the defendant No.3 has been praying for early hearing of Exh.5 application as he is a transferee of the suit land. Despite

the order dated 22.09.2025 being passed by the learned Court below giving direction to the plaintiffs to proceed hearing of Exh.5 application, learned advocate for plaintiffs are not proceeded with hearing of Exh.5 application and the matter is being adjourned from time and again.

5. It is further submitted that the necessary direction be given to the learned Trial Court for the expeditious hearing of Exh.5 application. Except above, no other submissions are made.

6. Considering the averments made in the petition, it appears that the plaintiffs have filed a suit for specific performance coupled with a relief of permanent injunction in the year 2023. However, for the one reason or other, Exh.5 application has not been finally heard and decided since 2023. The purpose of interim injunction application is frustrated if the application is not heard and disposed of as contemplated under the Code of Civil Procedure.

7. Considering the aforesaid facts, the learned Court below is hereby directed to complete the hearing of Exh.5 application within a period of three months from the date of receipt of this order. The parties are also directed to give full co-operation to the learned Court below for the expeditious hearing of Exh.5 application without seeking unnecessary adjournments. If any of the learned advocate of the party is not cooperating for hearing of Exh. 5, the learned trial Court shall hear the other party and decide application on merits and in accordance with law.

8. It is clarified that this Court has not gone into the merits of the case and the contentions of both the parties are left open for its final adjudication. Learned Court below shall decide the controversy strictly as per pleadings and provisions of law. Petition is disposed of accordingly. No order as to costs.

(D. M. DESAI,J)

SHIVANI SHUKLA