

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SECOND APPEAL NO. 348 of 2023**

**With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2023
In R/SECOND APPEAL NO. 348 of 2023**

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GUMANBHAI HIRABHAI GAMIT

Versus

MANSINGBHAI HIRABHAI GAMIT & ANR.

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Appearance:

C J GOGDA(7488) for the Appellant(s) No. 1

VIKAS V NAIR(7444) for the Appellant(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE SANJEEV J. THAKER

Date : 02/01/2025

ORAL ORDER

Order in Second Appeal

Heard learned advocate Mr. Vikas V. Nair for the appellant.

The appellant has challenged the judgment and decree passed by the Additional District Judge, Tapi at Vyara in Regular Civil Appeal No.13 of 2021, dated 06.01.2023 reversing the judgment and decree dated 15.07.2021 passed in Regular Civil Suit No.48 of 2016.

Looking to the facts of the present case and the fact that the original plaintiff has purchased the suit property on 10.04.1991 and the sale deed also is in individual name. The present matter requires consideration.

Admitted.

Substantial question of law are mentioned in the appeal memo in para-2-a, b, c & d and looking to the dispute between the parties, the following substantial question of law are framed:-

b. Whether the judgment of the First Appellate Court is rendered on an incorrect appreciation of the legal principles of the Hindu Succession Act, 1956 coupled with the provisions of the Transfer of Property Act?

c. Whether the interpretation of a document such as the recitals of the sale-deed dated 10.04.1991 can be done in such a manner to be overcome by the oral evidence of the defendant by merely raising a claim that they have made the part payment for the purchase of the land?

d. Whether the relationship of the parties is covered under the provisions of Baroda Hindu Nibandh 1937 or the provisions of Hindu Succession Act, 1956 and consequential reliefs can be considered accordingly?

e. Whether the property in question can be of Hindu Undivided Family property?

Order in Civil Application

In view of the fact that the present Second Appeal is admitted and the fact that matter requires consideration. Relief as prayed for in para-6(B) qua stay of operation of the impugned judgment and decree dated 06.01.2023 passed by the learned District Judge is stayed. Direct service is permitted.

Stand over to **12th February, 2025.**

(SANJEEV J.THAKER,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MANOJKUMAR RAI(HC01072), PRIVATE SECRETARY, at High Court of Gujarat on 02/01/2025 17:35:10

Manoj Kumar Rai