

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD  
R/SPECIAL CIVIL APPLICATION NO. 3972 of 2026**

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GOPALBHAI MAGANBHAI TADVI & ORS.  
Versus  
RAMANBHAI DEVABHAI TADVI & ORS.

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Appearance:

MR APURVA R KAPADIA(5012) for the Petitioner(s) No. 1,2,2.1,2.1.1,2.2

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**CORAM:HONOURABLE MR. JUSTICE DEVAN M. DESAI**

**Date : 20/03/2026**

**ORAL ORDER**

1. Draft amendment allowed. Necessary amendment to be carried out forthwith.
2. Heard learned advocate Mr. Apurva Kapadia for the petitioners.
3. Learned advocate for the petitioners submitted that the plaint of the plaintiff came to be rejected by the learned Court below by invoking the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter, referred to as "the Code"). It is submitted that the allegation of the defendant in the application under Order VII Rule 11 of the Code was that the suit of the plaintiff is hit by the principles of *res judicata*. The suit came to be rejected by allowing the application under Order VII Rule 11 of the Code filed by the defendant against which, the plaintiff – petitioner filed Regular Civil Appeal No. 29 of 2025 before the learned

District Court wherein, an application, Exhibit – 5, came to be submitted praying for stay of the judgment and decree passed by the learned Trial Court. The learned District Court rejected the Exhibit – 5 Application on the ground that there is no *prima facie* case made out by the appellant. Learned advocate for the petitioners has placed reliance upon the decision in the case of **“Pandurangan vs. T. Jayarama Chettiar” reported in 2025 (10) SCC 279.**

4. Considering the submissions canvassed by learned advocate for the petitioners, it appears that the plaint was rejected on the principle of *res judicata* by invoking the provisions contained under Order VII Rule 11 of the Code. The issue involved in the present petition requires consideration.

5. Rule. In the meantime, the operation and implementation of order dated 11.11.2025 passed by the learned Principal District Judge, below Exhibit – 5 in Regular Civil Appeal No. 29 of 2025 is hereby stayed.

7. Direct service, as prayed for, is permitted.

MUSKAN

**(D. M. DESAI,J)**