

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 4056 of 2026**

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JENTIBHAI KARSHANDAS JOGIYA

Versus

MAHENDRABHAI CHIMANBHAI MAHETA &amp; ANR.

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Appearance:

MR NIRAV C THAKKAR(2206) for the Petitioner(s) No. 1

MR DM DEVNANI(5880) for the Respondent(s) No. 2

MR VISHWA M SHAH(15460) for the Respondent No. 2

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CORAM:HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 21/04/2026

**ORAL ORDER**

1. Heard learned advocate Mr. Nirav Thakkar for the petitioner.
2. Learned advocate for the petitioner submitted that verbatim prayers are sought for in the plaint as well as in the Injunction Application. It is submitted that the prayers sought for in the plaint are to the effect that defendant No. 1 be restrained from applying any law on the door and, further be restrained from constructing any staircase inside the door portion. In the Injunction Application as well, similar reliefs are sought for. The learned Trial Court, while partly allowing the Injunction Application, directed to remove the wall as per the Commissioner's report. It is submitted that there is no prayer for removal of the wall either in the plaint or in the

Injunction Application. The learned Appellate Court further confirmed the said order.

3. Considering the submissions made by learned advocate for the petitioner and upon perusal of the plaint as well as the Injunction Application, it appears that plaintiff has sought for identical reliefs in the plaint and Injunction Application. By allowing the Exhibit – 5 Application, the learned Trial Court has virtually decreed the suit which has been affirmed by the learned Appellate Court. Further, it appears that there is no prayer for removal of the wall however, the learned Trial Court has directed defendant No. 1 to remove the disputed wall.

4. In view of the above facts, issue Rule. In the meantime, interim relief in terms of paragraph No. 7 (C) is granted.

MUSKAN

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