

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SECOND APPEAL NO. 187 of 2023

With

CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 2 of 2023

In R/SECOND APPEAL NO. 187 of 2023

With

CIVIL APPLICATION (FIXING DATE OF EARLY HEARING) NO. 3 of 2023

In R/SECOND APPEAL NO. 187 of 2023

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SHANKARBHAI SAVJIBHAI PRAJAPATI

Versus

CHAROTAR GRAMODDHAR SAHAKARI MANDLI LTD. THROUGH

DINESHBHAI PRAFULCHANDRA PANDYA

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Appearance:

MR MRUGEN K PUROHIT(1224) for the Appellant(s) No. 1
for the Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE GITA GOPI

Date : 23/10/2023

COMMON ORAL ORDER

Order in CA 3/2023:-

Heard Mr. Purohit, learned advocate for the applicant.

By way of this application, the applicant has prayed for preponement of hearing stating that the matter was lastly listed on 13.9.2023 which came to be adjourned and now the executing court has issued a notice in Execution Proceedings no.40/23. It is submitted that possession warrant for taking possession of the suit property was issued and thus, if the possession of the

property is taken, Second Appeal may become infructuous.

Mr. Purohit has submitted that room no.27 was allotted to Nanalal Shah who expired in 2004 and since then the society was collecting rent from the present applicant and there was no dispute about the possession and hence, the appellant cannot be considered as trespasser. Mr. Purohit has submitted that the executing court has issued possession warrant in Execution Proceedings no.40/23.

Considering the submissions made, the present application is allowed. Registry is directed to list the main matter for hearing today.

Order in SA:

Notice returnable on 6.12.2023. Direct service is permitted. Paper book be filed before the Registry.

Order in CA 2/2023:-

It is stated that in the execution proceedings, the opponent-society has made a prayer for opening of the lock of the premises.

In view of the submissions made, the matter would require hearing from the other side. Hence, Notice returnable on 6.12.2023. It is directed that the application for opening of the lock is stayed till further orders. Direct service is permitted.

Maulik

(GITA GOPI,J)