

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SECOND APPEAL NO. 105 of 2023****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2023****In****R/SECOND APPEAL NO. 105 of 2023**

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MUNIRABEN FIROJBHAI RAISH**Versus****USHABEN MANSUKHLAL MAHETA**

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Appearance:

MR TUSHAR L SHETH(3920) for the Appellant(s) No. 1
for the Respondent(s) No. 1,2,3,4,5,6,7

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CORAM: **HONOURABLE MR. JUSTICE RAJENDRA M. SAREEN****Date : 31/03/2023****ORAL ORDER**

Heard Mr. Sheth, learned advocate for the appellant.

This is an appeal arising out of the judgment and decree dated 27th March, 2023 passed by the Principal District Judge, Amreli in Regular Civil Appeal no.19 of 2007, wherein the the judgment dated 26th June, 2007 and decree dated 28th June, 2007 passed by the Addl. Civil Judge, Amreli in Regular Civil Suit no. 109 of 2003 is confirmed.

It is the say of the learned advocate for the appellant that the first appellate Court has not framed the point for determination as provided under Order 41 Rule 33 of CPC, which is mandatory and has only asserted the findings of the

learned Civil Judge, which is not permissible and has not given any independent findings upon the re-appreciation of the evidence, which is brought on record.

Considering the submissions of the learned advocate for the appellant, issue **Notice** returnable on **26th April, 2023**.

The order dated 17th March, 2023 of the Principal District Judge, Amreli upon Exh.85 in Regular Civil Appeal no.19 of 2007 to continue till the next date of hearing.

(RAJENDRA M. SAREEN, J.)

AMAR RATHOD...