

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SECOND APPEAL NO. 107 of 2023****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2023****In****R/SECOND APPEAL NO. 107 of 2023**

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S. P. MADRESSA HIGH SCHOOL**Versus****SIRAJKHAN HAIDARKHAN PATHAN**

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Appearance:

MS. KRUTI M SHAH(2428) for the Appellant(s) No. 1,2

for the Respondent(s) No. 1,2

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CORAM: **HONOURABLE MR. JUSTICE RAJENDRA M. SAREEN****Date : 10/04/2023****ORAL ORDER**

Heard Ms. Kruti Shah, learned advocate for the appellant.

By way of present second appeal, the appellant has challenged the judgment dated 1st March, 2023 passed by the 3rd Addl. District Judge, Surat in Regular Civil Appeal no.33 of 2014, whereby the judgment and decree passed by the 12th Addl. Senior Civil Judge, Surat dated 29th March, 2014 in Regular Civil Suit no.2591 of 1994 is confirmed.

As per the statement of Ms. Shah, learned advocate for the appellant the Government Resolution of BMD 1386/2286/88-G dated 3rd July, 1988 has been misinterpreted by both the Courts below and it is wrongly held that it is

compulsory to appoint the dependent of deceased Class-IV employee upon making application for seeking appointment on compassionate ground.

It is also submitted that the Civil Court has no jurisdiction to try the service matter and the service Tribunal has jurisdiction to deal with the said issue.

Considering the submissions of Ms. Shah, learned advocate for the appellant, the issue which is raised, requires consideration though there are concurrent findings of two Courts. Issue **Notice** upon the respondent no.1 returnable on **14th June, 2023**. Mr. Aditya Davda, learned AGP waives service of notice on behalf of the respondent no.2.

Order in Civil Application :-

Issue **Notice** qua the respondent no.1 returnable on **14th June, 2023**. Mr. Aditya Davda, learned AGP waives service of notice on behalf of the respondent no.2. ***The stay granted vide order dated 4th March, 2023 by the 3rd Addl. District Judge, Surat is extended till the next date.***

(RAJENDRA M. SAREEN, J.)

AMAR RATHOD...