

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 2569 of 2024****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2024****In R/FIRST APPEAL NO. 2569 of 2024**

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GIRISHCHANDRA JYANTILAL ANKLESARIA**Versus****OMKARNATH MISHRA & ANR.**

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Appearance:**MR ANSHIN DESAI, SENIOR ADVOCATE WITH MR SHRINEEL M****SHAH(9374) for the Appellant(s) No. 1****for the Defendant(s) No. 1,2**

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CORAM: HONOURABLE MR. JUSTICE SANDEEP N. BHATT**Date : 25/07/2024****ORAL ORDER****ORDER IN APPEAL:**

Heard learned senior advocate Mr. Anshin Desai for learned advocate Mr. Shrineel Shah for the appellant. He has submitted the paper book which is taken on record.

Learned senior advocate has drawn my attention to the finding of the lower Court about the readiness and willingness of the appellant and also towards the pleadings in his plaint as well as notice correspondence and submitted that considering the condition which is a part of the agreement to sale, it cannot be said that the plaintiff has not shown any readiness and willingness.

In view of the above submission, Notice for final disposal returnable on 27.8.2024.

ORDER IN CIVIL APPLICATION:

Considering the fact that the further transaction is entered into by the original defendant no.1 with defendant no.2 and that too, at a consideration much lower than the agreed amount in the agreement to sale executed between the plaintiff and defendant no.1, that the plaintiff has a strong prima facie case on merits and if further transaction will take place, then there are all chances of multiplicity of proceedings in addition to the fact that the plaintiff will face great hardship to get the fruits of the suit, if he succeeds in the appeal and the submission made at the bar that during the pendency of the suit proceeding, the interim relief was operating in favour of the plaintiff and when the Court has dismissed the suit, forcible possession of the property in question is taken by removing goods lying in the premises, Rule returnable on 27.8.2024. Interim relief in terms of paragraph 10(B) is granted till then.

(SANDEEP N. BHATT,J)

SRILATHA