

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 1542 of 2020**

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KALPESHBHAI DEVRAJBHAI BUSHAI
Versus
JAYANTILAL JOITARAM PATEL

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Appearance:

MR HARSHADRAY A DAVE(3461) for the Appellant(s) No. 1
MR MEHUL SHARAD SHAH(773) for the Appellant(s) No. 2
MR VINOD M GAMARA(5910) for the Appellant(s) No. 2
for the Defendant(s) No. 1
JENIL M SHAH(7840) for the Defendant(s) No. 2
MR SP MAJMUDAR(3456) for the Defendant(s) No. 1
ULLASH N GOHIL(8357) for the Defendant(s) No. 1

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CORAM: HONOURABLE MS. JUSTICE SONIA GOKANI
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 20/09/2022

ORAL ORDER
(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)

1. Due to paucity of time, it will not be possible to initiate these proceedings today. Otherwise the parties have given their written submissions and their paper book also has been supplied to the parties.
2. Noticing the initiation of proceedings by the Income Tax Department, in wake of the cash transactions ever to have been effected in these proceedings, the urgency had been made

out by learned advocate Mr. Majmudar appearing for respondent No.1.

3.We are given to understand by Mr. Vinod Gamara, learned advocate appearing with Mr. Mehul Sharad Shah for the appellant that some notices also have been issued against appellant No.2. Considering the fact that the order of assessment has already been passed against respondent No.1 and appeal has been preferred, the parties were contemplating impleading Income Tax Department as party by moving a separate Civil Application.

4.We have, therefore, requested Mr.M.R.Bhatt, learned Senior Advocate to act as *amicus curiae* in this matter before any other proceeding takes place. It is submitted by him that CIT (Appeals) has been already moved by respondent No.1, where the party is at liberty to make a request for grant of stay

in peculiar circumstances and the authority concerned would have the discretion to decide the same on the strength of the papers, which may be presented before it. He also has agreed that limitation of time, which is otherwise faced by the Assessing Officer, would not be there with the appellate authority.

5.Considering the fact that the appeal is otherwise to be heard in the second week of November, 2022 if in the meantime, CIT(Appeals) is approached by the respondent original plaintiff with all necessary documents, request can be made for exercise of powers of grant of stay till the outcome of this appeal.

6.Let the authority concerned exercise the powers in accordance with the law. In the event of any difficulty, the parties have the

liberty to approach this Court, if in case such emergent situation arises prior to the next scheduled date of final hearing.

7.S.O. to 16.11.2022 in the first five matters.

(MS. SONIA GOKANI, J.)

(NISHA M. THAKORE,J)

SUDHIR