

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1430 of 2025
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/FIRST APPEAL NO. 1430 of 2025

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MOHITKUMAR UPENDRABHAI KADIYA

Versus

VIJESHRI D/O VINODKUMAR KANTILAL KADIYA W/O MOHITKUMAR
UPENDRABHAI KADIYA

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Appearance:

PRIYANKA P THAKKAR(5890) for the Appellant(s) No. 1

NOTICE SERVED BY DS for the Defendant(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE L. S. PIRZADA

Date : 07/04/2026

COMMON ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. Heard learned advocate Mr.J.V.Japee with learned advocate Ms.Priyanka P. Thakkar for the appellant/applicant.

2. Learned advocate Mr.J.V.Japee for the appellant submitted that this Court issued the notice on 8th May, 2025 which was served upon the respondent-wife. Thereafter, fresh notice was issued on 1st September, 2025, which was also served.

3. This Court (Coram: Hon'ble Ms.Justice Sangeeta K. Vishen and Hon'ble Ms.Justice Nisha M. Thakore) passed the following order on 27th February, 2026 :

"1. Mr J. V. Japee, learned advocate for Ms Priyanka P. Thakkar, learned advocate for the appellant states that the captioned appeal is against the judgment whereby, the learned Judge has ordered the appellant to take the respondent back. It is submitted that this Court, has issued notice twice; one, vide order dated 08.05.2025 and second, fresh notice vide order dated 01.09.2025. It is submitted that though the notices are served and received by the respondent, she has chosen not to enter appearance. On one hand she has not entered appearance before this Court and on the other hand, in the execution proceedings, she is insisting for execution of the order.

2. Issue fresh notice to the

respondent, returnable on 09.03.2026. If the respondent fails to enter appearance, the possibility of passing the order securing the presence of the respondent, may not be ruled out including issuance of theailable warrant. Direct service is permitted."

4. Learned advocate Mr.J.V.Japee for the appellant submitted that the notice issued by this Court by the aforesaid order is also served upon the respondent-wife for third time and direct service affidavit to that effect is also filed. It was further submitted that the respondent-wife is not appearing before this Court and trying to see that the order of Restitution of Conjugal Rights, passed by Family Court, is implemented so as to frustrate the rights of the appellant.

5. In view of the above submissions, as the

respondent-wife is served three times but has chosen not to appear and considering the facts of the case as well as the submissions of the learned advocate Mr.J.V.Japee for the appellant, the impugned Judgment and Decree dated 21st January, 2025 passed by the learned Principal Judge, Family Court, Modasa, District:Arvalli in Family Suit No.4 of 2024 is hereby stayed pending admission, hearing and final disposal of the First Appeal and the Civil Application till the next date of hearing.

6. Stand over to **5th May, 2026.**

Direct service is permitted.

(BHARGAV D. KARIA, J)

(L. S. PIRZADA, J)

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