

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 8288 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE MAULIK J.SHELAT**

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Approved for Reporting	Yes	No
		✓
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RIDDHI SIDDHI CO-OPERATIVE HOUSING SOCIETY LTD.

Versus

HEMLATABEN SHANKARBHAI DAVNE W/O BHALCHANDRA AKEKAR

Appearance:

MR DEEP D VYAS(3869) for the Petitioner(s) No. 1

CORAM: HONOURABLE MR. JUSTICE MAULIK J. SHELAT**Date : 02/07/2026****JUDGMENT**

1. Heard Mr. Deep D. Vyas, learned Advocate for the petitioner.
2. The present writ petition is filed under Article 227 of the Constitution of India, seeking the following reliefs:

“(A) YOUR LODSHIPS may be pleased to pass appropriate order and/or direction to quash and setting aside the impugned order dated 27/02/2026 passed by the 2nd Additional Senior Civil Judge, Umbergaon in Regular Darkhast (Execution Petition) No. 07/2004;

(B) Pending hearing and final disposal of this petition, Your Lordships may be pleased to stay the implementation, execution and operation of the impugned order dated 27/02/2026 passed by the 2nd Additional Senior Civil Judge, Umbergaon and further proceedings of Regular Darkhast (Execution Petition) No. 07/2004;

(C) YOUR LODSHIPS may be pleased to pass such other and further order which deem fit in the interest of justice."

3. At the outset, Mr. Vyas, learned Advocate for the petitioner, would draw the attention of this Court that just above the operative portion of the order impugned in this petition, though it is recorded by the Executing Court that the petitioner, being the judgment debtor, has no objection about the status of the applicant-respondent herein as a adopted daughter of the deceased judgment creditor, but in fact, from the reply filed by the petitioner as well as the impugned application is contested by the petitioner, such observation is *ex facie* erroneous one.
- 3.1. Mr. Vyas, learned Advocate for the petitioner, would further submit that without conducting any inquiry as envisaged under Section 47, sub-section (3), read with Order 22, Rule 5 of the CPC, the Executing Court has allowed the respondent-applicant of the impugned application to join the execution proceedings as the legal representative of the deceased judgment creditor, which is wrong.
4. Having heard Mr. Vyas, learned Advocate and upon careful perusal of the order impugned in this petition, *prima facie*,

there is a statement of fact recorded by the Executing Court about accepting the status of the respondent-applicant as the adopted daughter of the judgment creditor by the petitioner herein. It is true that the impugned application filed below Exhibit 87 by the respondent was contested by the petitioner, but what actually transpired during the course of hearing and any wrong statement/observation recorded by the Executing Court in the order impugned, it should be corrected by the Executing Court upon an appropriate application which may be filed by the petitioner. It is well-settled that whatever is recorded in the judgment/order is sacrosanct and any error in recording of either the submissions or any statement of the parties/Advocates concerned, the proper approach is to approach the very Court by way of an appropriate application.

[See: Central Bank of India V/s. Vrajlal Kapurchand Gandhi and anr., reported in AIR 2003 SC 3028 : (2003) 6 SCC 573 (para 12)]

5. According to my view, at this stage, without further entering into the merits of the matter, the petitioner is permitted to move an appropriate application before the Executing Court in regards to wrong observations/consent recorded by the

petitioner qua accepting the status of the respondent as an adopted daughter of the judgment creditor. Once such an application will be filed by the petitioner herein, after giving an opportunity of hearing to all parties concerned, the Executing Court is hereby directed to decide such application in accordance with law.

6. It is also open for the petitioner to file an appropriate application under Section 47, sub-section (3) read with Order 22, Rule 5 of the CPC before the Executing Court. Once such an application will be received, the same shall be decided by the Trial Court in accordance with law.
7. It is made clear that this Court has neither gone into nor examined the merits of the matter, except what has been observed hereinabove.
8. At this stage, Mr. Vyas, learned Advocate for the petitioner, does not invite further reasons in the matter. Accordingly, the present petition is disposed of. No order as to costs.

(MAULIK J. SHELAT, J)

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