

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SECOND APPEAL NO. 334 of 2024****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2024****In R/SECOND APPEAL NO. 334 of 2024**

=====

LH OF DECD SALEMAMAD IBRAHIM TURIYA & ORS.

Versus

KHATUBHAI OSMAN NODE & ANR.

=====

Appearance:

MR MB PARIKH(576) for the Appellant(s) No. 1,1.1,1.2,1.3,1.4,1.5,1.6,1.7

LALJI L KATVA(8484) for the Respondent(s) No. 1,2

MR HARSHIL C DATTANI(6241) for the Respondent(s) No. 1,2

=====

CORAM: **HONOURABLE MR. JUSTICE DEVAN M. DESAI****Date : 17/04/2026****ORAL ORDER**

1. Heard learned advocates for the parties. Copy of leave to amend is placed on record by learned advocate for the appellants, which is taken on record. Leave to amend is granted.
2. Learned advocate for the respondent, upon instructions, submitted that as on today, the suit property is in possession of the respondent and till final hearing and disposal of the present Second Appeal, respondent shall maintain *status quo qua* title and possession of the suit property and shall not make any changes in the suit property without prior leave of this Court.

3. On the other hand, learned advocate for the appellants is satisfied with the aforesaid submissions canvassed by learned advocate for the respondent and has proposed the following substantial questions of law for consideration.

“(b) Whether the Honorable Appellate Court has committed a serious error of law by ignoring the material documentary and oral evidence on record more particularly Vide Ex. 168 Certificate issues by Gram Panchayat showing the name of Turiya Salemanad Ibrahim as the owner of the suit property?”

“(c) Whether the Honorable Appellate Court has committed serious error of law and facts by ignoring the material documentary evidence Vide Ex. 207 pedigree showing the name of the plaintiffs in the record of Panchayat of the suit premises and thus hold that the plaintiffs have not produced the pedigree and therefore suit is failed?”

2(1c) The Honorable Appellate Court has failed to consider the settled principle of law that a permissive user cannot acquire an interest in the suit property, irrespective of long possession, and therefore the judgement and decree passed by the appellate court be justified in the eyes of the law?”

Except above, no other substantial questions of law are framed by learned advocate for the appellants.

4. Having considered the submissions of learned advocates for the parties and in view of the aforesaid facts, appeal is admitted. The respondent is hereby directed to maintain *status quo* with regard to the title and possession of the suit

property. The respondent is hereby further directed not to make any alterations either permanent or temporary without prior leave of this Court.

5. Registry is directed to call for the record and proceedings from the concerned Court below forthwith.

RINKU MALI

(D. M. DESAI,J)