

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 219 of 2023**

=====

SUNIL NANDLAL PALIWAL
Versus
MERIDIAN SKYZ OWNERS ASSOCIATION THROUGH MR. PRAKASH
BHALCHANDRA GARGE

=====

Appearance:

MR MANAN B PANDYA(12491) for the Applicant(s) No. 1,2,3
for the Opponent(s) No. 1

=====

CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN

Date : 09/06/2023

ORAL ORDER

1. Mr Manan B. Pandya, learned advocate submitted that the petitioners are aggrieved by the order dated 13.02.2022 passed by the learned Additional Civil Judge, Vadodara, rejecting the application on the ground that the ingredients of Order VII Rule 11 of the Code of Civil Procedure, 1908, are not attracted. It is submitted that the respondent - original plaintiff, has preferred an application before the District Consumer Dispute Resolution Commission (Additional) in the year 2013 which, came to be decided on 09.03.2022. The said complaint, came to be rejected owing to the fact that the original plaintiffs were not remaining present. It is submitted that even before the court below, the respondents - original plaintiffs, have failed to appear which, has been recorded in the order of the learned judge. Therefore, the grievance of the plaintiff, arose in the year 2013 whereas, the suit, has been filed in the year 2020 raising the very same grievance. Therefore, the suit, would be barred by the limitation; however, not accepting the stand that the application has been rejected. It is

submitted that the limited objection raised by the petitioners, was that the suit is barred by the limitation; however, what was not even claimed and prayed, has been recorded in the order of the learned judge. Additional contentions have been recorded which, were never argued or raised by the petitioners.

2. Considered the submissions. Issue notice to the respondents, returnable on 03.07.2023. Ad-interim relief is granted in terms of paragraph 15(B) till the next date of hearing. Direct service is permitted.

RAVI P. PATEL

(SANGEETA K. VISHEN,J)