

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SECOND APPEAL NO. 459 of 2026**

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2026
In R/SECOND APPEAL NO. 459 of 2026

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With
R/SECOND APPEAL NO. 287 of 2026

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With
R/SECOND APPEAL NO. 288 of 2026

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CIVIL APPLICATION (FOR STAY) NO. 1 of 2026
In R/SECOND APPEAL NO. 288 of 2026

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ZAVARBHAI SAVJIBHAI PATEL SINCE DECEASED AND DELETED
 THROUGH HEIRS AND LEGAL REPRESENTATIVES & ORS.

Versus
 KANCHANBEN D/O NATHUBHAI NAROTTAMBHAI & ORS.

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Appearance:

MR ASHISH H SHAH(2142) for the Appellant(s) No. 1,1.1,1.2,1.3,1.4,1.5,1.6
 MR. D. P. KINARIWALA(410) for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE MAULIK J.SHELAT

Date : 18/08/2026

COMMON ORAL ORDER

ORDER IN SECOND APPEALS:

1. Heard Mr. Dhaval C. Dave, learned Senior Counsel assisted by Mr. Ashish H. Shah, learned Advocate and Mr. Jigar M. Patel, learned Advocate for the appellants and Mr. D. P. Kinariwala, learned Advocate assisted by

Mr. P.Y.Divyeshvar, learned Advocate for the respondent No.1 – caveator in respective appeals.

2. ADMIT. Mr. P. Y. Divyeshvar, learned Advocate, Mr. Jigar M. Patel, learned Advocate and Mr. Ashish H. Shah, learned Advocate, waive service of notice of admission for and on behalf of respective respondents in respective appeals.

3. The following substantial questions of law are framed:

“A) Whether both the Courts below have erred in law in finding that the Power of Attorney issued by two Principals to an agent comes to an end on death of one of the Principals?”

B) Whether both the Courts below have erred in misreading and misconstruing the Power of Attorney and possession agreement for holding that the Power of Attorney was not irrevocable and the Power of Attorney was not irrevocable and coupled with interest?

C) Whether the lower appellate court having found that the power of attorney was revocable has erred in finding that the same was required to be compulsorily registered under section 17(1)(b) of the Registration Act and in absence of thereof the same cannot be considered in view section 49 of the Registration Act?

D) Whether Courts below have erred in law in not finding that the declaratory suit for declaration of ownership in absence of challenge to the sale deed was not maintainable?

E) Whether Courts below have erred in law in not finding that the challenge to the subsequent release deed dated 31.05.2007 in

absence of challenge to the prior sale deed dated 25.11.2002 was not maintainable?

F) Whether the Courts below have erred in setting aside the release deed dated 31.05.2007 without the same having produced on record and without the same having exhibited?

G) Whether both the Courts below have erred in law in finding that the sale deed dated 25.11.2002 was void in absence of challenge to the said sale deed in the prayer clause?

H) Whether both the Courts below have erred in law in passing the declaratory decree of ownership on the ground that the sale deed was without consideration, inasmuch as as per the settled legal position, the sale deed cannot be set aside on the ground of want of consideration?

I) Whether the Hon'ble Appellate Court has committed gross error of law in expanding the scope of the appeal and framing additional points of determination at the time of pronouncement of the judgment and order, though in respect of the same, no specific issues were framed by the Hon'ble Trial Court in the suit and further in absence of pleadings and evidence before the Hon'ble Trial Court in the suit?

J) Whether the Hon'ble Appellate Court has erred in law in not considering the provisions of Section 17(1-A) of the Registration Act, providing that the possession agreement in part performance of the contract under Section 53-A is required to be registered after the Registration (Amendment) Act, 2001 and on the date of execution of the possession agreement in 2000, the same was not applicable?"

ORDER IN CIVIL APPLICATIONS (FOR STAY):

1. Heard Mr. Dhaval C. Dave, learned Senior Counsel assisted by Mr. Ashish H. Shah, learned Advocate and Mr. Jigar M. Patel, learned Advocate for the appellants and Mr. D. P. Kinariwala, learned Advocate assisted by Mr. P.

Y. Divyeshvar, learned Advocate for the respondent No.1
- caveator in respective appeals.

2. Rule returnable forthwith. Mr. P. Y. Divyeshvar, learned Advocate, Mr. Jigar M. Patel, learned Advocate and Mr. Ashish H. Shah, learned Advocate, waive service of rule for and on behalf of respective respondents in respective applications.

3. Having heard learned Counsels for the respective parties and at the end of hearing of learned advocates, it is jointly requested by learned advocates for the respective parties, under the instruction of their respective clients, that during the pendency of these Second Appeals, parties will maintain status-quo qua nature, possession and title of the suit properties. It is requested by learned advocates appearing for the parties to this Court that no independent reasons be assigned by this Court for granting an order of status-quo.

4. Since the learned advocates appearing for the respective parties, under the instruction of their clients,

does not invite a reasoned order and showed their readiness to maintain status-quo, I pass the following order.

4.1. The parties to these proceedings are directed to maintain status-quo qua nature, possession and title of the suit properties till final disposal of the Second Appeals.

5. Accordingly, in view of the aforesaid, the present applications are partly allowed to the aforesaid extent. Rule is made absolute. No order as to costs.

SHAHANAZ

(MAULIK J.SHELAT,J)