

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 11377 of 2026

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MAHINDRA VERSHI SHAH

Versus

RAJUBHAI GANESHBHAI MORADIYA & ORS.

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Appearance:

MR. MIHIR JOSHI, SR. COUNSEL with

MR AMIT V THAKKAR(3073) for the Petitioner(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT

Date : 03/09/2026

ORAL ORDER

1. Heard Mr. Mihir Joshi, learned Senior Counsel assisted by Mr. Amit V. Thakkar, learned advocate for the petitioner.

1.1 At the outset, learned advocate for the petitioner would submit the draft amendment. The draft amendment is allowed. The same shall be carried out forthwith.

2. Mr. Joshi, learned Senior Counsel, would submit that the way in which the execution proceeding instituted and ultimately permitted to be withdrawn by the Executing Court despite there was a serious objection raised by petitioner, such procedure adopted by Executing Court needs to be looked into by this Court.

2.1 Mr. Joshi, learned Senior Counsel, would submit that so far as objection of the petitioner being third party to so-called consent decree ought to have been considered by the Executing Court on merits rather than rejecting it on the ground that once the execution proceeding is permitted to be withdrawn by the Court, it becomes infructuous. It is submitted that objection of the petitioner was submitted below Exhibit-20 on 04.10.2025 in the execution, whereas the withdrawal purshis came to be filed on 15.10.2025 (Exhibit-22), and on the very day, another objection below Exhibit-26 was also filed by the petitioner, despite such fact, in a very cavalier manner, the Executing Court has passed the impugned order.

2.2 Mr. Joshi, learned Senior Counsel, would submit that there are other points which also need to be considered by this Court and the grounds are set out in the petition.

3. Having heard Mr. Joshi, learned Senior Counsel for the petitioner, *prima facie*, it appears that objection of the petitioner was prior in point of time than withdrawal purshis. In such situation, the Executing Court was required to decide the objections of petitioner,

though stranger to the consent decree, in accordance with law, rather than disposing it of in a cavalier fashion by citing a reason that since the execution petition is withdrawn, it is to be disposed of.

4. Having considered the facts of the present case, the issue germane to the petition requires deliberation by this Court.

5. In view of the aforesaid, issue ***Notice***, returnable on 15.10.2026.

6. It is open for the parties to request for early hearing of the petition on the next date of hearing.

Lalji Desai

(MAULIK J.SHELAT,J)